

CHARTER OF THE UNITED NATIONS

# Report to the President

ON THE RESULTS OF THE  
SAN FRANCISCO CONFERENCE  
BY THE CHAIRMAN OF THE UNITED STATES DELEGATION,  
THE SECRETARY OF STATE



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JUNE 26, 1945

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San Francisco, California

June 26, 1945

TO THE PRESIDENT OF THE UNITED STATES

Sir:

The United Nations Conference on International Organization met in San Francisco on the 25th day of April, 1945. At that time the war in Europe had lasted for more than five years; the war in the Pacific for more than three; the war in China for almost eight. Casualties of a million men, dead, wounded, captured, and missing had been suffered by the United States alone. The total military casualties of the nations which had fought the European war were estimated at some fourteen millions dead and forty-five millions wounded or captured without count of the civilian dead and maimed and missing—a multitude of men, women, and children greater than the whole number of inhabitants of many populous countries. The destruction among them all of houses and the furniture of houses, of factories, schools, shops, cities, churches, libraries, works of art, monuments of the past, reached inexpressible values. Of the destruction of other and less tangible things, it is not possible to speak in terms of cost—families scattered by the war, minds and spirits broken, work interrupted, years lost from the lives of a generation.

Thirty years before the San Francisco Conference was called, many of the nations represented there had fought another war of which the cost in destruction had been less only than that of the present conflict. Total military casualties in the war of 1914-1918 were estimated at thirty-seven million men. Counting enemy dead with the dead among the Allies, and civilian losses with military losses, over thirteen million human beings, together with a great part of the work they had accomplished and the possessions they owned, had been destroyed. Many of the nations represented at San Francisco had fought the second war still weakened by the wounds they suffered in the first. Many had lost the best of two succeeding generations of young men.

It was to prevent a third recurrence of this great disaster that the Conference of the United Nations was called in San Francisco according to the plans which Mr. Cordell Hull as Secretary of State had nurtured to fruition. The Conference had one purpose and one purpose only: to draft the charter of an international organization through which the nations of the world might work together in their common hope for peace. It was not a new or an untried endeavor. Again and again in the course of history men who have suffered war have tried to make an end of war. Twenty-six years before the San Francisco Conference met, the Conference at Paris, under the inspired and courageous leadership of Woodrow Wilson, wrote the Covenant of a League of Nations which many believed would serve to keep the peace. That labor did not gain the wide support it needed to succeed.

But the Conference at San Francisco, though it was called upon to undertake a task which no previous international conference or meeting had accomplished, met nevertheless with high hope for the work it had to do. It did not expect—certainly no member of the American Delegation expected—that a final and definitive solution of the problem of war would be evolved. Members of the Conference realized, from the first day, that an evil which had killed some forty million human beings, armed and unarmed, within the period of thirty years, and which, before that, had ravaged the world again and again, from the beginning of history, would not be eradicated by the mere act of writing a charter, however well designed.

Nevertheless, the Conference at San Francisco had behind it the demonstrated capacity of its members to work together to a degree rarely if ever before attained by sovereign nations. Not only in the prosecution of a war fought on four continents and the waters and islands of every ocean under conditions of the greatest danger and difficulty, but in the preparation for the termination of the war and, more particularly, in the preparation for the organization of the post-war world to keep the peace, the principal Allies had established a working and workable collaboration without precedent in the history of warfare. At Moscow in 1943, the United States, the United Kingdom and the Soviet Union and China had made a pledge which still endures, to continue their united action "for the organization and maintenance of peace and security". At Dumbarton

Oaks, these four Allies had reached agreement upon proposals for a world security organization, and later at Yalta, the United States, the United Kingdom and the Soviet Union had further extended the area of their common understanding to which China gave her full adherence. These proposals, immediately published for the criticisms and comments of the people of all the United Nations, became the basis of the work at San Francisco.

Furthermore, there was reason, in the nature of the San Francisco Conference itself, to hope that more could be accomplished there than had been possible at earlier meetings. The Conference called at San Francisco was not a peace-time conference summoned to debate the theory of international cooperation, or a post-war conference convened to agree upon a treaty. It was a war-time conference. Every nation represented at San Francisco was in a state of war when the Conference began. Many were engaged throughout the weeks of its deliberation in bitter and costly fighting. Not only the peoples of the United Nations but the more than sixty million men and women enlisted still in the armed forces of those nations regarded the Conference, and had a right to regard it, as a meeting of *their* representatives engaged upon a labor of immediate importance and concern to *them*. It was a peoples' conference and a soldiers' conference in the sense that it met under the eyes of the soldiers who fought this war and the peoples who endured it, as no previous conference to deal with peace and war had ever met. It was a conference, also, which met in a world which knew of its own knowledge that another war would be fought, if there were another war, with weapons capable of reaching every part of the earth—that similar weapons had indeed been brought to the point of use in the present conflict.

These facts exerted a compelling influence not only on the work of the Conference but on the Charter it evolved. It was the common and equal determination of all those who participated in its labors that the Conference *must* reach agreement: that a charter must be written. The possibility of failure was never at any time admitted. It was the determination of the delegates, also, that the Charter which the Conference produced should be a charter which would attempt to meet and to satisfy the concern and the anxiety of those who had suffered war and who knew at first hand the realities of violence. It would be a charter which would combine, with a decla-

ration of united purpose to preserve the peace, a realistic and suitable machinery to give that purpose practical effect.

The Charter drafted by the Conference at San Francisco is such a charter. Its outstanding characteristic and the key to its construction is its dual quality as declaration and as constitution. As declaration it constitutes a binding agreement by the signatory nations to work together for peaceful ends and to adhere to certain standards of international morality. As constitution it creates four overall instruments by which these ends may be achieved in practice and these standards actually maintained. The first function of the Charter is moral and idealistic: the second realistic and practical. Men and women who have lived through war are not ashamed, as other generations sometimes are, to declare the depth and the idealism of their attachment to the cause of peace. But neither are they ashamed to recognize the realities of force and power which war has forced them to see and to endure.

As declaration the Charter commits the United Nations to the maintenance of "international peace and security", to the development of "friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples", and to the achievement of "international cooperation in solving international problems", together with the promotion and encouragement of "respect for human rights and for fundamental freedoms for all". More precisely, the United Nations agree to promote "higher standards of living, full employment, and conditions of economic and social progress and development; solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion".

Further, in its capacity as declaration, the Charter states the principles which its Members accept as binding. "Sovereign equality" of the member states is declared to be the foundation of their association with each other. Fulfillment in good faith of the obligations of the member states is pledged "in order to ensure to all of them the rights and benefits resulting from membership" in the Organization. Members are to "settle their international disputes by peaceful means" and in such manner as not to endanger international peace

and security, and justice. Members are to "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations". At the same time Members bind themselves to give the Organization "every assistance in any action it takes" in accordance with the Charter, and to "refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action".

Finally, the Charter as declaration binds those of its Members having responsibilities for administration of territories whose peoples have not yet attained the full measure of self-government, to recognize the principle "that the interests of the inhabitants of these territories are paramount" and to "accept as a sacred trust" the obligation to promote their well-being to the utmost.

These declarations of purposes and principles are notable in themselves. They state, without condition or qualification, a first and overriding purpose "to maintain international peace and security". International peace and security are the essential conditions of the world increasingly free from fear and free from want which President Roosevelt conceived as the great goal and final objective of the United Nations in this war and for the realization of which he and Cordell Hull worked unceasingly through twelve of the most decisive years of history.

But neither these declarations, nor those others which assert the intention of the United Nations to bring about the economic and social conditions essential to an enduring peace, or to promote respect for human rights and fundamental freedoms, would suffice, in and of themselves, to meet the evil of war and the fear of war which the Conference at San Francisco was called to consider. What was needed, as the Charter itself declares, was machinery to give effect to the purpose to maintain the peace—"effective collective measures for the prevention and removal of threats to the peace". What was needed, if the United Nations were really determined to have peace, was the means to peace—"to bring about by peaceful means . . . adjustment or settlement of international disputes".

These means the Charter in its capacity as constitution undertakes to establish. It creates, in addition to its Secretariat and the Trusteeship Council with its specialized but vital functions, four principal

overall instruments to arm its purposes and to accomplish its ends: an enforcement agency; a forum for discussion and debate; a social and economic institute through which the learning and the knowledge of the world may be brought to bear upon its common problems; an international court in which justiciable cases may be heard. The first is called the Security Council; the second, the General Assembly; the third, the Economic and Social Council; the fourth, the International Court of Justice. Their functions are the functions appropriate to their names.

It will be the duty of the Security Council, supported by the pledged participation, and backed by military contingents to be made available by the member states, to use its great prestige to bring about by peaceful means the adjustment or the settlement of international disputes. Should these means fail, it is its duty, as it has the power, to take whatever measures are necessary, including measures of force, to suppress acts of aggression or other breaches of the peace. It will be the duty of the Security Council, in other words, to make good the commitment of the United Nations to maintain international peace and security, turning that lofty purpose into practice. To that end the Council will be given the use and the support of diplomatic, economic and military tools and weapons in the control of the United Nations.

It will be the responsibility of the General Assembly to discuss, debate, reveal, expose, lay open—to perform, that is to say, the healthful and ventilating functions of a free deliberative body, without the right or duty to enact or legislate. The General Assembly may take up any matter within the scope of the Charter or relating to the powers and functions of any organs provided in the Charter. It may discuss the maintenance of peace and security and make recommendations on that subject to the Security Council calling its attention to situations likely to endanger peace. It may initiate studies and make recommendations for the purpose of promoting international cooperation in the maintenance of peace and security. It is charged with the duty of assisting in the realization of human rights and fundamental freedoms and encouraging the development and codification of international law. It may debate any situation, regardless of origin, which it thinks likely to impair the general welfare, and recommend measures for its peaceful adjust-

ment. It may receive and consider reports from the various organs of the United Nations, including the Security Council.

Stated in terms of the purposes and principles of the Charter, in other words, it is the function of the General Assembly, with its free discussion and its equal votes, to realize in fact the "sovereign equality" of the member states to which the United Nations are committed and to develop in practice the "friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples" which the chapter on Purposes names as its second objective. Furthermore, it is the function of the Assembly to realize in its own deliberations the "international cooperation in the solution of international problems" which the Charter recites as one of its principal aims, and to employ the weapon of its public debates, and the prestige of its recommendations, to promote and encourage "respect for human rights and for fundamental freedoms".

The relation of the Economic and Social Council to the stated purposes of the United Nations is similarly direct and functional. The attainment of the ends which the United Nations lists among its Purposes in economic, social, health and other related fields, requires expert knowledge and careful study and the development of collaborative programs of action. The instrument devised by the Charter to that end is a Council in the economic and social field acting under the general responsibility of the Assembly and consisting of representatives of eighteen states.

The Economic and Social Council is empowered to make and initiate studies in its field, to frame reports and to make recommendations on its own initiative not only to the General Assembly, but to the Members of the Organization and to the specialized agencies in the fields of economics, health, culture, labor, trade, finance, human rights, and the like, which will be associated with the United Nations under the Council's coordination. Furthermore, the Council is authorized to call international conferences "on matters falling within its competence"; to prepare, for submission to the General Assembly, "draft conventions" in this field; "to perform services at the request of Members of the United Nations and at the request of specialized agencies"; and to obtain reports from the member states and from the specialized agencies on steps taken to give effect to its recommendations and those of the General As-

sembly. In a field of interest which concerns the peoples of the world as directly as the field of social and cultural and economic improvement, the power to study, report and recommend—the power to call conferences, prepare draft conventions and require reports of progress—is a power which can be counted on to go a long way toward translating humanitarian aspirations into human gains.

The role of the International Court of Justice in the realization of the objectives of the Charter is obvious from the general nature of the Court. The purposes of the Charter include the adjustment or settlement of international disputes "in conformity with the principles of justice and international law". The International Court of Justice is the instrument of the United Nations to effect this purpose in the case of justiciable disputes referred to the Court by the parties. Where disputes are referred to the Court, or where member states accept the compulsory jurisdiction of the Court in certain categories of cases, its decisions are, of course, binding upon the parties. Moreover, under the Charter, all members of the United Nations undertake to comply with the decisions of the Court. Where a party to a case decided by the Court fails to comply with its decision, the matter may be brought to the attention of the Security Council for appropriate action.

These four overall instruments of international action constitute the principal means by which the Charter proposes to translate the world's hope for peace and security into the beginning of a world practice of peace and security. There are other instruments, adapted to other and more special ends. There is the Trusteeship Council, which will have the heavy responsibility of attaining in non-strategic areas the objectives of the trusteeship system established by the Charter. There is the Secretariat which, as an international civil service responsible to the Organization alone, will constitute its staff. The Security Council, the General Assembly, the Economic and Social Council and the Court are, however, the principal tools through which, and by which, the general aims and purposes of the Charter would be carried out.

They are instruments admittedly of limited powers. The jurisdiction of the Court is not compulsory unless accepted as such by member states. The Assembly cannot legislate but merely discuss and recommend. The Security Council is obliged, when force is

used, to act through military contingents supplied by the member states. Measured against the magnitude of the task to which the United Nations have committed themselves and considered in the light of the long history of previous failures in this undertaking, such limited instruments may seem inadequate to the labor to be done. They have, nevertheless, characteristics which justify a greater hope for their success than the extent of the powers delegated to them would imply. They have behind them the history of humanity's long effort to suppress, in other areas of life, disorder and anarchy and the rule of violence. These four instruments are, in effect, the four principal agencies through which mankind has achieved the establishment of order and security as between individuals and families and communities.

On the frontiers of democratic society—not least upon the American frontiers—the instruments of order have always been, in one form or another, an agency to enforce respect for law with moral and physical power to prevent and to suppress breaches of the peace; a court in which the differences and disagreements of the citizens could be heard and tried; and a meeting place where the moral sense of the community could be expressed and its judgments formed, whether as declarations of law or as declarations of opinion. To these three fundamental and essential instruments of order, time and the necessities of advancing civilization have added a fourth institution through which technical knowledge and accumulated experience can be brought to bear upon the social and economic problems of society—problems with which learning and science and experience can effectively deal.

These four fundamental instruments—the enforcement officer, the Court, the public meeting, and the center of science and of knowledge—are instruments to which free men are accustomed. They are instruments in the use of which self-governing men have become adept over many generations. They are instruments the efficacy of which has been demonstrated by the whole history of human civilization. Their establishment in the international world, though accompanied by limitations upon their scope, will not alter their quality nor diminish their prestige. To transplant vines and trees from familiar to unfamiliar environments, is necessarily to cut them back and prune them. To transplant social organisms from the world of individual

and group relations to the world of international relations, is necessarily also to limit them and cut them back. Nevertheless, instruments of proven social value taken over from the domestic to the international world carry with them qualities of vigor and of fruitfulness which the limitations placed upon them by their new condition cannot kill. They have behind them an historical momentum and a demonstrated usefulness which mean far more, in terms of ultimate effectiveness, than the precise legal terms by which they are established in their new environment.

Moreover, if the work of cutting back is done realistically, the chances of survival are increased. The four social instruments taken over by the United Nations have been adapted to the conditions of the actual world of international relationship with a realistic appreciation of the limiting factors to be faced. The Security Council is not the enforcement agency of a world state, since world opinion will not accept the surrender of sovereignty which the establishment of a world state would demand. The Security Council, therefore, depends upon the sovereign member states for the weapons both of persuasion and of force through which it will attempt to keep the peace. But its dependence upon the member states is realistically adapted to the situation of the member states. The Council is to use the power of the member states in accordance with the realities of the distribution of power. The voting procedure of the Security Council is expressive of the actualities of the possession and the exercise of power in the modern world. The five principal military powers of our time are made permanent members of the Council. Furthermore, in order that their possession of power and their use of power may be made to serve the purpose of peace, it is provided that they shall exercise their power only in agreement with each other and not in disagreement.

A similarly realistic acceptance of the facts of the actual world limits the General Assembly to discussion and deliberation without the power to legislate, since the power to legislate would necessarily encroach upon the sovereign independence of the member states. So too the Economic and Social Council has no power or right to interfere with the domestic affairs of the states composing the United Nations. And for the same reason the jurisdiction of the Court is limited. These adaptations to the realities of the existing

situation in the contemporary world do not decrease, but on the contrary increase, the likelihood that the instruments borrowed by the Charter of the United Nations from the history of the ancient struggle for peace and order among individual men will serve their purpose in the newer struggle for peace and order among nations.

Upon the belief that the Charter as Constitution will furnish effective means for the realization of the purposes fixed by the Charter as Declaration; and upon the belief that the Charter as Declaration will set noble and enduring goals for the work of the Charter as Constitution, I base my firm conviction that the adoption of the Charter is in the best interests of the United States and of the world.

If we are earnestly determined, as I believe we are, that the innumerable dead of two great holocausts shall not have died in vain, we must act in concert with the other nations of the world to bring about the peace for which these dead gave up their lives. The Charter of the United Nations is the product of such concerted action. Its purpose is the maintenance of peace. It offers means for the achievement of that purpose. If the means are inadequate to the task they must perform, time will reveal their inadequacy as time will provide, also, the opportunity to amend them. The proposals of the Sponsoring Powers on which the Charter is based were published to the world six months before the Conference to consider them convened. In these six months the opinion of the world was brought to bear upon their elements. Subsequently, at the Conference itself, every word, every sentence, every paragraph of the Charter's text was examined and reconsidered by the representatives of fifty nations and much of it reworked. For the first time in the history of the world, the world's peoples directly, and through their governments, collaborated in the drafting of an international constitution. What has resulted is a human document with human imperfections but with human hopes and human victory as well. But whatever its present imperfections, the Charter of the United Nations, as it was written by the Conference of San Francisco, offers the world an instrument by which a real beginning may be made upon the work of peace. I most respectfully submit that neither we nor any other people can or should refuse participation in the common task.

EDWARD R. STETTINIUS, JR.

## INTRODUCTION

### UNITED STATES PREPARATION FOR THE CONFERENCE

With the outbreak of war in Europe it was clear that the United States would be confronted, after the war, with new and exceptionally difficult problems. Whether or not we became a belligerent, it was inevitable that we would be drawn into situations created by the war and its aftermath. Special facilities were obviously required to deal with the enlarged responsibilities of the Department of State. Accordingly, a Committee on Post-War Problems was set up before the end of 1939 to analyze developments which were likely to influence the post-war foreign relations of the United States. The Committee consisted of high officials of the Department of State. It was assisted by a research staff, which, in February, 1941, was organized into a Division of Special Research.

The work on post-war problems was greatly enlarged and intensified after the attack on Pearl Harbor. By direction of the President, the research facilities were rapidly expanded, and the Departmental Committee on Post-War Problems was reorganized into an Advisory Committee on Post-War Foreign Policies.

The new Committee was headed by Secretary Cordell Hull as Chairman. Under Secretary Sumner Welles was Vice Chairman. The membership of the Committee consisted of Assistant Secretaries of State Dean Acheson, Adolf A. Berle, Jr., and Breckinridge Long; of high officials of other Departments of the Government; of a number of members of Congress; and of a group of distinguished experts from outside the Government. The Congressional group included, from the Senate Committee on Foreign Relations, the Honorable Tom Connally of Texas, the Honorable Walter F. George of Georgia, the Honorable Elbert D. Thomas of Utah; the Honorable Warren R. Austin of Vermont, and the Honorable Wallace H. White, Jr. of Maine, and, from the House Committee on Foreign Affairs, the Honorable Sol Bloom of New York, the Honorable Luther A. Johnson of Texas and the Honorable Charles A. Eaton of New Jersey. The group from outside the Government included Mr. Hamilton Fish Armstrong, Mr. Isaiah Bowman, Mr. Norman

H. Davis, Mrs. Anne O'Hare McCormick, Mr. James T. Shotwell, and Mr. Myron C. Taylor. Other officials of the Department of State participated continuously in the work of the Committee. These included Mr. Green H. Hackworth, Mr. James Clement Dunn, and Mr. Leo Pasvolsky, the latter serving as the Committee's Executive Officer and Director of Research.

The Advisory Committee had a number of Subcommittees, including one on Political Problems, presided over by the Secretary or the Under Secretary of State; one on Security Problems, presided over by Mr. Davis; one on Territorial Problems, presided over by Mr. Bowman; and one on Economic Problems, presided over by Mr. Taylor.

The Advisory Committee and its Subcommittees had a broad and comprehensive program of work, embracing all of the important aspects of post-war foreign policy. The execution of its assignment required on the part of the Department of State constant contact with the other Departments and agencies of the Government, as well as with the Congress. In this way international conferences were prepared and machinery created for the solution of such problems as relief and rehabilitation, food and agriculture, and aviation. The important Bretton Woods Conference, in which the Treasury Department took a leading role, dealt with problems in the monetary and financial field. The question of the post-war treatment of enemy states was under continuing study in the Departments of State, War and Navy. At the same time, work was carried forward in many other fields.

From the very beginning, however, the problems of post-war peace and security organization were paramount. In the Atlantic Charter, four months before Pearl Harbor, President Roosevelt and Prime Minister Churchill focused the world's attention on the supreme need for "a peace which will afford to all nations the means of dwelling in safety within their own boundaries" and for the "establishment of a wider and permanent system of general security." On January 1, 1942, all of the nations then at war with the Axis, by signing the Declaration by United Nations, affirmed their adherence to the purposes and principles of the Atlantic Charter. It was the task of the Department of State, of its various Committees and of the other Departments of the Government associated with it, to devise ways and means by which the United States could make its

contribution toward the translation of these high purposes and ideals into an institutional structure of organized international relations.

The work involved finding answers to many difficult questions and problems. There was need, first of all, for fundamental decisions as to whether or not United States membership in a strong international organization should be recommended, and, if so, on what terms and in what kind of organization. A particularly difficult question was whether there should be a single organization for international security and the advancement of human welfare, or whether the security organization and the organization for the improvement of economic and social conditions should be separate.

Another recurring problem was that of regional arrangements. What should be their relation to the world organization? Should the world organization be built on regional arrangements, or, on the contrary, should regional arrangements be built into a world organization deriving its authority from individual states?

There were many other problems to be considered. Granted that the organization was to have a general assembly and a security council, what should be the difference between the functions of the two, and what should be their relations to each other? Should the council be an executive committee of the assembly or a separate body? Should the organization be empowered to employ force for purposes of peace and security? If so, should it have an international police force of its own, or should it rely on military contingents supplied by the several states? What should be the relation of the World Court to the organization; should it be one of its branches or a separate organ?

These and many other questions raised in part by the experience of the League of Nations and in part by the nature of the problem of international organization as such, occupied the Department and its Committees from the beginning of the work to its end.

By the middle of 1943, a question of the highest importance came to the fore. It was clear that the principal United Nations were fully resolved to carry the war to a successful conclusion, and military developments on the Eastern front, in the Mediterranean, and in the Pacific made it apparent that their victory was only a matter of time, steadfastness of purpose, and intensity of effort. In all of the United Nations public opinion was moving strongly in support

of post-war arrangements to maintain the peace. In the United States, public opinion with reference to our participation in an international security organization was developing rapidly under Congressional leadership. The Fulbright Resolution was introduced in April, 1943. The Ball-Burton-Hatch-Hill Resolution, the Connally Resolution and others were also introduced during the summer and fall of 1943. In September of that year, the Republican Party adopted its important Mackinac Declaration.

It was in these circumstances that, by direction of President Roosevelt, Secretary Hull went to Moscow for the first meeting of the Foreign Ministers of the United States, the United Kingdom, and the Soviet Union. Out of that meeting came a clear and unequivocal answer of the principal Allies as to their intentions after the war. In a ringing declaration, to which China was a party, the four powers proclaimed their determination to continue, after the war, the close cooperation which had characterized their war effort; their recognition of the fact that the maintenance of international peace and security after the war would require the creation of an international organization, open to membership by all peace-loving states, large and small; and their resolve to work together for the creation of such an organization. The Moscow Declaration was confirmed and strengthened, at Cairo and Teheran, by the joint statements of the heads of government of the four nations.

The ideas and even many textual expressions which went into the Moscow Declaration were developed in the course of the Department's work and in the continuing discussions which took place, especially in the Subcommittees on Political Problems and on Security Problems referred to above.

The emphasis in the Moscow Declaration on the desirability of establishing a world security organization "at the earliest practicable date" served as a renewed impetus for the work being done by our Government and by the governments of the other principal United Nations. The Advisory Committee had already completed, in the political field, its extremely valuable general review of post-war problems. The time had come to set up in the Department committees of a more technical character. One of these committees was specifically charged with the preparation of concrete proposals for

an international peace and security organization of the kind envisaged in the Moscow Declaration.

Building on the immense amount of materials gathered and prepared in connection with the work of the Advisory Committee and its Subcommittees, the new Committee proceeded to formulate a set of concrete proposals for eventual transmission to the other governments as a basis for further four-nation discussions contemplated at the Moscow Conference. The work was done under the immediate direction of Secretary Hull and Under Secretary Stettinius. Its results were, at various stages, submitted to the President for his approval. By midsummer of 1944 the main ideas had become sufficiently crystallized to enable the President, on June 15 of that year, to issue a statement giving a basic outline of the kind of international organization the Government of the United States considered desirable.

At various times during this period, Secretary Hull consulted with a non-partisan group of members of the Senate Committee on Foreign Relations, including the Honorable Tom Connally of Texas, Chairman of the Committee, the Honorable Walter F. George of Georgia, the Honorable Alben W. Barkley of Kentucky, the Honorable Guy M. Gillette of Iowa, the Honorable Elbert D. Thomas of Utah, the Honorable Arthur H. Vandenberg of Michigan, the Honorable Wallace H. White, Jr., of Maine, the Honorable Warren R. Austin of Vermont, and the Honorable Robert M. LaFollette, Jr., of Wisconsin, as well as with a non-partisan group of members of the House of Representatives, including the Honorable Sam Rayburn of Texas, Speaker of the House, the Honorable Sol Bloom of New York, Chairman, Committee on Foreign Affairs, the Honorable John W. McCormack of Massachusetts, Majority Leader, the Honorable Robert Ramspeck of Georgia, Majority Whip, the Honorable Joseph W. Martin, Jr., of Massachusetts, Minority Leader, the Honorable Charles A. Eaton of New Jersey, Ranking Minority Member, Committee on Foreign Affairs, and the Honorable Leslie C. Arends of Illinois, Minority Whip. From time to time, Secretary Hull also consulted with other Congressional leaders and with outstanding experts outside the Government.

From the latter part of 1942, there was another feature of the Department's work which proved to be of very great value. In

order to make possible an overall review and direction of the many activities that were being carried on in the various fields by the Department itself and by its Committees, President Roosevelt and Secretary Hull established a small informal steering group, which consisted of Secretary Hull, Under Secretary Welles, Mr. Green H. Hackworth, Mr. James Clement Dunn, Mr. Norman H. Davis, Mr. Myron C. Taylor, Mr. Isaiah Bowman, and Mr. Leo Pasvolsky. In September of 1943, Mr. Stettinius, upon becoming Under Secretary of State, replaced Mr. Welles as a member of this group. The group met frequently with Secretary Hull and from time to time with the President. The discussions were informal and wide-ranging. Sometimes they included the critical examination of prepared memoranda, more often they dealt with the broad perspective of major policy questions. They kept the planning and thinking of the technical staffs and of the specialized committees closely co-ordinated with the highest political judgments.

## DUMBARTON OAKS CONVERSATIONS

On July 18, 1944, an American draft proposal which had resulted from more than two years of study and consultation, was submitted to the British, Soviet and Chinese Governments. Shortly thereafter, these governments submitted corresponding papers to the Department of State. The four documents taken together constituted the basis of the Dumbarton Oaks conversations which took place in Washington from August 21 to October 7, 1944, in accordance with an understanding reached at the Moscow Conference that conversations of this type among representatives of the four governments would be held as soon as practicable. The Dumbarton Oaks Proposals, which resulted, are printed in Appendix A of this Report. They are shorter and less detailed than the American draft of July 18—but are otherwise essentially similar. At the same time they expressed the most essential views of the other consulting powers.

The Dumbarton Oaks Proposals did not constitute in any sense a complete Charter for the proposed international organization. Rather they set forth the essential structural framework of an organization consisting basically, as its four main pillars, of a General Assembly, a Security Council, an Economic and Social Council, and an

International Court of Justice. That organization was to be based on the principle of sovereign equality of all peace-loving states and was to be open to participation by all such states, large and small. It was to provide for the maintenance of international peace and security and for the creation of conditions of stability and well-being necessary for the maintenance of peace. The Dumbarton Oaks Proposals also set forth the basic obligations and responsibilities in all these fields which would have to be assumed by all participating states if the projected organization was to be effective. They were intended to serve as a basis for a general conference of all United Nations at which the entire structure would be developed more fully and a definitive Charter would be written.

There were several questions which were left open at Dumbarton Oaks and on which agreement was necessary at a high political level. The most important of these related to the voting procedure in the Security Council, agreement on which was finally reached at the Crimea Conference in February 1945.

Another was the question of the treatment of non-self-governing territories and particularly the possible functions of the projected organization in the field of trusteeship responsibility with respect to some such territories. An immense amount of work in this field had been done in the Department and by its committees, and the subject was discussed with the other governments concerned on several occasions. It was not, however, until the Crimea Conference that agreement was reached to include this particular question on the agenda of the general conference.

The Crimea Conference thus opened the way for the San Francisco Conference. Between the two meetings, the work of preparation moved from the hands of committees and officials into those of the Delegation and its advisers.

During the six months immediately preceding the San Francisco Conference there was another and highly important phase of preparation. In an unprecedented action by the four powers represented at Dumbarton Oaks, the proposals there evolved were immediately published for world comment and criticism, prior to the discussion of them at the proposed conference of the United Nations. It is doubtful whether the democratic process has ever before been applied so

broadly and so directly to a developing problem in the field of international relations.

Moreover, the result more than justified the confidence of President Roosevelt and his associates. Public discussion produced criticisms and suggestions of great value to the development of the Charter. Within the United States, the Department of State distributed approximately 1,900,000 copies of the text of the Dumbarton Oaks Proposals. It also responded, within the limits of time and manpower, to the public demands made upon it for information about the text. Officers of the Department accepted some 260 speaking engagements, out of many times that number of invitations, from organizations of all kinds—schools, labor unions, church groups, women's clubs, associations of all kinds throughout the country. In addition, at the invitation of the motion picture industry and of one of the principal broadcasting companies, motion picture films and a radio series relating to the Proposals were prepared. The public response, estimated in number of inquiries, was impressive. Letters to the Department relating to the Dumbarton Oaks Proposals reached a weekly peak of about 20,000 by the month of April.

## THE UNITED STATES DELEGATION AND CONSULTANTS AT SAN FRANCISCO

The second, or public, phase of the preparation for the San Francisco Conference did not end with the consideration of the comments and criticisms evoked by the Dumbarton Oaks Proposals. On the contrary, the public discussion of the question led directly to a development which was not only an innovation in the conduct of international affairs by this Government but also, as events proved, an important contribution to the Conference itself. As a direct result of public discussion of the Proposals, forty-two national organizations were invited to send representatives to San Francisco to serve as Consultants to the United States Delegation. Included among them were leading national organizations in the fields of labor, law, agriculture, business, and education together with principal women's associations, church groups, veterans' associations and civic organizations generally. (A list of the organizations and their representatives is printed in Appendix D.)

The purpose of inviting these Consultants was to inform them of the work of the Conference and of the United States Delegation and to secure their opinions and advice. Regular meetings were held with the Chairman and members of the United States Delegation, and a liaison staff kept the Consultants in continuing contact with the documentation of the Conference and with information about it. As subsequent Chapters of this Report will indicate, the Consultants were largely instrumental in the introduction into the final Charter of certain important provisions. Their presence in San Francisco meant that a very large body of American opinion which had been applying itself to the problems of international organization played a direct and material part in drafting the constitution of the United Nations.

In addition to the forty-two organizations represented through Consultants, a number of other organizations sent representatives to San Francisco, for whom special liaison facilities were maintained near the Veterans Building and the Opera House. Meetings of this larger group were also addressed by members of the United States Delegation and others particularly informed as to the work of the Conference.

The official United States Delegation to the San Francisco Conference was named by President Roosevelt on February 13, 1945, in the course of the Yalta Conference. On that day, President Roosevelt stated that the United Nations Conference on International Organization would be held in San Francisco on April 25 and that the United States would be represented by the Honorable Edward R. Stettinius, Jr., Secretary of State; the Honorable Cordell Hull, former Secretary of State; the Honorable Tom Connally, United States Senator from Texas and Chairman of the Senate Committee on Foreign Relations; the Honorable Arthur H. Vandenberg, United States Senator from Michigan and member of the Senate Committee on Foreign Relations; the Honorable Sol Bloom, Member of Congress from New York and Chairman of the House Committee on Foreign Affairs; the Honorable Charles A. Eaton, Member of Congress from New Jersey and ranking minority member of the House Committee on Foreign Affairs; Commander Harold E. Stassen, U.S.N.R., former Governor of Minnesota; and Miss Virginia Gildersleeve, Dean of Barnard College, New York City.

The United States Delegation met for the first time in the office of

the Secretary of State on March 13, 1945. During the next five weeks the Delegation held twelve meetings, in the course of which members of the Department of State and of the committees which had worked on the problem of peace and security reported upon the preparatory work which had been done in the Department and in consultation with other governments. In these meetings the United States Delegation reviewed the Dumbarton Oaks Proposals as well as the discussions from which they resulted and examined its own position with reference to comments upon the proposals and criticisms of them received by the Department following their publication.

The Delegation was aided in this work by the group of advisers whose names are printed in Appendix D of this Report. Included among them were the principal advisers to the Delegation who worked continuously with it from the beginning of its studies to the completion of its deliberations in San Francisco. These included Assistant Secretary of State James Clement Dunn; Mr. Green H. Hackworth, Legal Adviser to the Department of State; Mr. Leo Pasvolsky, Special Assistant to the Secretary of State; and Mr. Isaiah Bowman and Mr. Hamilton Fish Armstrong, Special Advisers to the Secretary of State. Mr. John Foster Dulles joined the group of principal advisers before the departure of the Delegation from Washington. Both in the Delegation's preparatory work in Washington and during the Conference, military advisers headed by the Honorable John J. McCloy, Assistant Secretary of War, and the Honorable Artemus Gates, Assistant Secretary of the Navy, sat regularly with the Delegation in San Francisco, particularly for the consideration of military and security questions.

Throughout the preliminary part of its work the Delegation met several times in the White House with President Roosevelt, and later with President Truman, to discuss the more important questions of policy raised in the course of its deliberations. By the time of its final meeting in Washington on April 18, the Delegation had prepared its recommendations for President Truman with respect to modifications in the text of the Dumbarton Oaks Proposals and additional problems.

The first meeting of the United States Delegation in San Francisco was held on April 23, 1945, two days before the opening of the Conference, at the Delegation's headquarters in the Fairmont Hotel.

Between then and the end of the Conference on June 26, the Delegation met together a total of some sixty-five times. While each of the members of the Delegation, their advisers and the technical experts was assigned to one or more of the committees which conducted the substantive work of the Conference, the position taken by the United States on specific issues coming before the committees was established in advance after full deliberation at Delegation meetings.

During the early stages of the Conference, the principal work of the Delegation was to review the decisions taken by it in Washington in the light of further suggestions made by other governments for changes in the Dumbarton Oaks Proposals. After the position of the Delegation on these suggestions had been established, they were then discussed with the Delegations of the other Sponsoring Powers, and these consultations also took into account the new suggestions of the consulting governments themselves. Between April 25 and May 4, such a remarkable degree of unanimity was reached among the four delegations concerned that they were able to present jointly to the Conference their unanimously approved suggestions for some thirty amendments to the Dumbarton Oaks Proposals. Throughout the remainder of the Conference, this extremely fruitful consultative procedure between the great powers (France having been subsequently added to the consulting group) was followed on all major issues of the Conference to the point where either a unanimous position was established between them on particular Conference issues, or, in a few instances, agreement was reached between them to pursue their own courses in the committee discussions. In this way, the great powers were able to assist in expediting the work of the Conference and in resolving many of the most difficult problems that were presented to it. The meetings between the great powers were attended by all or nearly all of the members of the United States Delegation; their principal advisers, and appropriate technical experts, as well as by corresponding representatives of the other Delegations involved.

In arriving at their conclusions on all of the matters that came before them in connection with the Conference, the members of the Delegation retained complete freedom of action and judgment while at the same time agreeing that, in the case of differences of

opinion, the position of the Delegation should be determined by a majority vote. The confidence of the Chairman of the Delegation, expressed in its first meeting when he stated his conviction "that while free in pursuing our personal views and convictions, we shall be able to work as one team", was abundantly justified. In fact, the United States Delegation was successful in achieving throughout its long and difficult labors a spirit of cooperation and a degree of unanimity which were remarked by all who were familiar with its work.

Altogether, the preparation for the United Nations Conference on International Organization was planned, organized and executed so as to bring to bear upon the unresolved problem of the organization of the world for peace the experience and resources of the entire Government and people. In the actual labor of the Conference as well as in the preparation which preceded it, the American press, radio and motion pictures played an important part. Once the nation was committed, through the publication of the Dumbarton Oaks Proposals, to a wholly democratic procedure in the discussion of the question of world organization, it was essential that the people should be fully informed of the problem before them and of the proposals presented for its solution. Only thus was it possible to carry through a program of democratic collaboration to which Franklin Delano Roosevelt and Cordell Hull had given inspiring leadership worthy of the best traditions of this nation.

## NAME

The United Nations was the title proposed in the Dumbarton Oaks Proposals for the general international organization. This title, suggested by President Roosevelt, was taken from the Declaration of January 1, 1942, which formally brought the United Nations into being. By the time the San Francisco Conference opened, forty-seven nations had signed this Declaration.

The United Nations in their Declaration affirmed that complete victory over the common enemies was essential to the defense of life, liberty, independence, and religious freedom, and the preservation of human rights and justice. To achieve this victory, each signatory pledged its full resources in the war and agreed not to make a separate armistice or peace. The signatories of the Declaration also subscribed to the common long term program of purposes and principles embodied in the Atlantic Charter, the central goal of which is the establishment of a peace "which will afford assurance that all the men in all the lands may live out their lives in freedom from fear and want". Thus, the name, the United Nations, has been associated from the beginning with complete victory over the common enemies and the establishment of future peace and security.

Some delegations at the San Francisco Conference were not at first entirely satisfied with the United Nations as a title for the proposed organization. They felt that the name of a group of states bound together in wartime alliance was not appropriate for an international organization to maintain future peace and security, an organization which would in time include some of the states which have been or are now enemies of the United Nations. It was also felt it would be difficult to find an equivalent in certain languages.

In the discussions at San Francisco the United States Delegation held firmly to the title proposed in the Dumbarton Oaks Proposals. The Delegation took the position that the war had been successfully prosecuted under the banner of the United Nations; that good fortune attaches to this name; and that we should go forward under it to realize our dreams of the peace planned by the President who

conceived the phrase. Other delegations also supported the title on the ground that we of the United Nations intend to stand together in peace for the same principles we fought for together in war. Furthermore, they said, the name will be no less appropriate in the future when vanquished nations are considered for membership, since they will be obliged to accept United Nations standards of conduct before they can be admitted. Numerous delegations, moreover, supported the choice of the title, the United Nations, as a tribute to its originator. Acting upon the overwhelming sentiment in favor of that name, the Conference Committee which considered this subject adopted it unanimously and by acclamation.

## PREAMBLE

The Preamble introduces the Charter. It seeks to strike the keynotes of the Organization. In general language it expresses the common intentions, the common ideals which brought the United Nations together in conference at San Francisco and inspired their work.

No preamble was drafted at Dumbarton Oaks. The participating nations felt that it was not feasible to prepare a preamble until after the provisions of the Charter for the general international organization were generally agreed upon with the other nations concerned. It was felt that a meaningful preamble expressing the real intentions and controlling motives that brought all the peoples of the United Nations together to establish the Organization could emerge only from discussions among representatives of those nations.

At the beginning of the San Francisco Conference Field Marshal Smuts of South Africa proposed that there should be a preamble to the Charter and submitted a draft which is the basis of the text finally adopted. The draft included a declaration of human rights and of the common faith which sustained the peoples of the United Nations in their bitter and prolonged struggle for the vindication of those rights and of that faith. It expressed the thought that our war had been for the eternal values which sustain the spirit of men and that we should affirm our faith not only as our high consideration and guiding spirit in the war but also as our objective for the future.

The opening words of the Preamble, and therefore of the Charter, are modelled upon the opening words of the Constitution of the United States—"We the peoples of the United Nations". The Delegation of the United States proposed these words which in our history express the democratic basis on which government is founded. These words also express our concern for the welfare of the peoples of the world and our confidence that they are "coming into their own". Although no other treaty among nations had thus sought to speak for the peoples of the world instead of merely for their governments, the proposal of the United States Delegation was received with general satisfaction. This was in a very real sense a peoples' conference but the peoples of the world act through

governments and the Preamble closes with the statement that the respective governments, through their representatives assembled in San Francisco, have agreed to this Charter.

The committee of the Conference charged with the formulation of the Preamble and with the chapters stating the Purposes and the Principles of the United Nations, found some difficulty in distributing among these three sections of the Charter the basic ideas upon which it is founded. The Preamble is an integral part of the Charter but the obligations of the Members are to be found in other portions of the text. Although the legal force to be attributed to a preamble of a legal instrument differs in different systems of law, the Conference did not doubt that the statements expressed in the Preamble constitute valid evidence on the basis of which the Charter may hereafter be interpreted.

The words of the Preamble need no special analysis here. The thoughts behind them — from the appeal to save the future from the scourge of war, through references to respect for obligations arising from treaties, on to the establishment of institutions to translate ideals into realities—all these run through and inspire the succeeding chapters of the Charter.

# PURPOSES AND PRINCIPLES OF THE ORGANIZATION

## (Chapter I)

### PURPOSES

Article 1 gives the Purposes of the Organization; it defines the objectives. The Purposes, as the report of a Committee of the Conference says, "are the aggregation of the common ends" on which the minds of the delegates met. Hence, they are "the cause and object of the Charter to which member states collectively and severally subscribe". The Purposes are binding on the Organization, its organs and its agencies, indicating the direction their activities should take and the limitations within which their activities should proceed.

The first purpose of the Organization is: "To maintain international peace and security". It was set out originally in the Moscow Declaration of October 30, 1943, and continuously asserted throughout the preparations that led up to the San Francisco Conference. That purpose, repeated in the Dumbarton Oaks Proposals, stands unchanged in the Charter that emerged from San Francisco. There are no conditions and no qualifications. The United States feels and has maintained that without international peace and security the peoples of the world could not be free from fear or free from want—that the fundamental freedoms could be enjoyed only if international peace and security were assured. The events of the past decade bear tragic testimony to the correctness of this point of view.

In the maintenance of international peace and security the Organization is authorized to proceed along three broad lines.

First, the Organization is authorized to bring about by peaceful means, and in conformity with the principles of justice and international law, the adjustment or settlement of international disputes or situations which might lead to a breach of the peace.

Second, it is empowered to take effective collective measures to prevent and to remove threats to the peace. The Organization is expected to inform itself of potentially dangerous situations in advance of the actual outbreak of violence and to employ appropriate measures to deal with them.

Third, the Organization is empowered to take effective collective measures to suppress acts of aggression or other breaches of the peace. We in the United States have long held that unless an international organization has force available, to be used if necessary, the organization can never be effective. The attitude of the people of the United States on this subject was expressed in 1943, when, by overwhelming non-partisan majorities, the Fulbright Resolution passed the House of Representatives and the Connally Resolution was adopted by the Senate of the United States.

These three procedures for maintaining international peace and security have been supported by the United States since the beginning of its studies in connection with the establishment of a general international organization. They were embodied in the Dumbarton Oaks Proposals and were incorporated in the Charter substantially as they were drafted in the Proposals. An exception is the addition of the phrase "in conformity with the principles of justice and international law", which was added at San Francisco to meet the wishes of those who felt that the reference to law and justice should be explicit rather than implicit as in the Dumbarton Oaks Proposals.

The purpose to maintain international peace and security is not wholly expressed, however, in the procedures for pacific settlement, preventive action and enforcement measures. The Organization also has the purpose and is empowered to take positive and affirmative action to assist in bringing about the conditions essential for peace throughout the world and for its enjoyment. The Dumbarton Oaks Proposals included such a positive purpose for the Organization. Following the pattern set in those Proposals, there is stated in Article 1 the purpose of the Organization to achieve cooperation among nations in solving international problems of an economic, social, cultural, or humanitarian character. At San Francisco a number of delegations favored even further enumeration of the types of problems with which the Organization would have inevitably to concern itself in its efforts to promote conditions conducive to peace. Following discussion, however, it was considered preferable to rely on the broad statement of purposes in general terms that would cover the appropriate problems.

The Dumbarton Oaks Proposals contained a statement in the Chapter on Economic and Social Cooperation that the Organization

should promote respect for human rights and fundamental freedoms. Many people in this country and throughout the world expressed the hope that this purpose of the Organization could be given more emphasis and be spelled out more completely in the Charter. It was therefore proposed at San Francisco by the four Sponsoring Powers—the United States, the United Kingdom, the Soviet Union and China—and it was agreed by the Conference, that the reference to human rights should be brought forward and stated prominently in the first Chapter among the purposes of the Organization. It was also agreed, on the suggestion of the Sponsoring Powers, that the statement with respect to human rights and fundamental freedoms in the Dumbarton Oaks text should be amplified to provide that the Organization would seek to achieve international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion".

As in the case of the economic, social, cultural, and humanitarian problems with which the Organization may deal, "human rights and fundamental freedoms" are not enumerated or spelled out. The United States Delegation has, however, made clear its understanding that the "fundamental freedoms" include freedom of speech and that freedom of speech involves, in international relationships, freedom of exchange of information.

The Sponsoring Powers also proposed that it should be the purpose of the United Nations to develop friendly relations among nations on the basis of "respect for the principle of equal rights and self-determination of peoples".

This purpose has a prominent place in the Atlantic Charter. It corresponds also to the desire of people everywhere. Its inclusion in the Charter expressed the wishes not of the Sponsoring Powers alone but of other nations as well.

A final purpose of the United Nations is "to be a center for harmonizing the actions of nations in the attainment of these common ends". This purpose was stated in substantially the same terms in the Dumbarton Oaks Proposals and was not the subject of controversy at San Francisco. Whether the term "center" be thought of in geographical or in spiritual terms, it symbolizes the thought that the common efforts of the member states are to be focused in the Organization.

As finally drafted, the Charter thus expresses an overriding and unqualified purpose to maintain international peace and security, not only by taking appropriate measures to settle disputes and to prevent or suppress acts of aggression, but also by creating conditions favorable to the preservation of peace through the solution of economic, social, cultural and humanitarian problems and through the promotion of respect for human rights and freedoms including the equal rights and self-determination of peoples.

## PRINCIPLES

Article 2 sets forth in one place in the Charter the chief obligations of a general nature assumed by Members of the United Nations and the basic principles on which the Organization is founded. The Principles stated in this Chapter are binding on the Members. The organs of the United Nations are equally bound to respect them in performance of their particular functions. The Charter speaks for itself: "The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles". The plan of having a body of fundamental principles brought together in one chapter at the opening of the Charter was conceived at Dumbarton Oaks, and, with some additions, Article 2 remains in large part as it was drafted in Chapter II of the Proposals.

The first principle states that the Organization "is based on the sovereign equality of all its Members". The expression "sovereign equality" is taken from the Moscow Four-Nation Declaration of October 30, 1943. Mr. Cordell Hull, who signed this Declaration on behalf of the United States, explained in an address to the Congress that the principle of the sovereign equality of all peace-loving states, large and small, as partners in a future system of general security, would be the foundation stone upon which the proposed general international organization would be constructed. Mr. Hull explained further that the adoption of this principle was particularly welcome to the United States; that nowhere has the conception of sovereign equality been applied more widely than in the American family of nations.

The expression "sovereign equality" was understood to mean that states are juridically equal and that they enjoy the rights in-

herent in their full sovereignty. It was further understood that this principle involves respect for the personality of a state and for its territorial integrity and political independence, an understanding which is strengthened by the fourth principle.

The second principle provides that all Members of the United Nations shall fulfill "in good faith" the obligations assumed by them in accordance with the Charter in order to ensure to all of them the rights and benefits resulting from membership in the Organization. The wording adopted varies only slightly from that agreed to at Dumbarton Oaks. It was used to indicate as clearly as possible that the enjoyment of rights and benefits of membership depends upon the fulfillment of obligations. This principle, however, does not mean merely that if a Member fulfills its obligation, it may then exercise certain rights; it implies also that, unless all Members of the Organization carry out in good faith their obligations, none of the Members can receive the full benefits of membership in the Organization. The fulfillment of duties and obligations by all member states will alone assure the effectiveness of the Organization. It was thought necessary to include this principle among those on which the Organization is founded in view of past experience when nations have tended to emphasize their rights and to neglect their duties and have subscribed to obligations which, in time of international crisis, they ignored.

The third principle provides that all Members shall settle their international disputes by peaceful means in such a manner that international peace, security, and justice are not endangered. Except for the insertion of the words "international" and "justice", this principle is in the form in which it was written at Dumbarton Oaks. At San Francisco, on the initiative of the Sponsoring Powers, the word "international" was added to make it perfectly clear that the Organization would concern itself only with disputes *among* the nations, a conclusion stated more explicitly in the seventh principle. At the request of a number of nations who wished to make it clear that the settlement of international disputes should be consonant with the principles of justice, the Conference accepted the addition of the word "justice". It was understood that this principle does not obligate the Members to settle all their international disputes. Some disputes, if they do not endanger international peace and security,

may be left in a quiescent state, although means are provided to have them brought before the Organization at any time. The substance of the clause is that peaceful means shall be the one method by which international disputes will be settled and furthermore the settlement itself shall not be such as to endanger either international peace and security, or justice.

The fourth principle provides that all Members of the United Nations shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations. Except for the reference to territorial integrity and political independence, this principle was also included in the Dumbarton Oaks Proposals. Under this principle Members undertake to refrain from the threat or use of force in any manner inconsistent with the purposes of the Organization. This means that force may be used in an organized manner under the authority of the United Nations to prevent and to remove threats to the peace and to suppress acts of aggression. The whole scheme of the Charter is based on this conception of collective force made available to the Organization for the maintenance of international peace and security. Under Article 51 force may also be used in self-defense before the machinery of the Organization can be brought into action, since self-defense against aggression would be consistent with the purposes of the Organization.

There was strong feeling among many nations at San Francisco that the Charter should include a statement emphasizing respect for the territorial integrity and political independence of states. Agreement was reached to state the obligation of Members of the Organization to refrain in their international relations from the threat or use of force against territorial integrity or political independence. The standards of conduct of this country permit us to assume this obligation with no hesitation, and such an obligation is consistent with the purpose of the United Nations to prevent the threat or use of force in any manner inconsistent with its objectives.

The fifth principle provides that all Members of the United Nations shall give every assistance to the Organization in any action undertaken by it in accordance with the provisions of the Charter, and shall refrain from giving assistance to any state against which

the United Nations is taking preventive or enforcement action. This principle combines the fifth and sixth principles which were in the Dumbarton Oaks Proposals. It means first of all that the Members will be obligated to give to the Organization any assistance which their obligations under the Charter require of them. Unless the Organization can count on such assistance, it cannot now plan effectively or operate successfully. From this general obligation stem the other more specific obligations to give assistance on particular matters which are further elaborated in other provisions of the Charter. It means also the corollary of this obligation. It constitutes a general pledge not to strengthen the hand of a state which has violated its obligations under the Charter to the point where preventive or enforcement action has become necessary. This principle was unanimously adopted at San Francisco.

The sixth principle states that the Organization shall ensure that states not Members act in accordance with these principles so far as may be necessary for the maintenance of international peace and security. This principle was voted at San Francisco as it stood in the Dumbarton Oaks Proposals. Accordingly, non-member states will be expected to conform to the principles of the United Nations in so far as such conformity is necessary to assure the maintenance of peace and security. In addition, the Organization is directed to see that non-member states do not threaten or breach the peace. Such action by the Organization is, of course, an essential condition for the preservation of the general peace of the world.

At San Francisco this principle was unanimously adopted. The predominant sentiment was that unless the Organization undertook this responsibility with respect to states not members of the Organization, the whole scheme of the Charter would be seriously jeopardized. In the background of the thought of many delegates was the action of Germany and Japan, ex-members of the League, who menaced the peace until finally they wrought havoc throughout the world.

The seventh and last principle provides that nothing in the Charter "shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state". It provides equally that the Members are not required to submit such do-

mestic matters to settlement. One exception is then provided; the principle is not to "prejudice the application of enforcement measures under Chapter VII".

The formulation of this principle differs from that adopted in the Dumbarton Oaks Proposals, and a shift in its location in the Charter also carries important consequences. In the Dumbarton Oaks Proposals the principle had been included in Paragraph 7 of Chapter VIII, Section A, which deals with the pacific settlement of disputes. It stated that nothing in the first six paragraphs of that Section should apply to "situations or disputes arising out of matters which by international law are solely within the domestic jurisdiction of the state concerned".

At San Francisco, preliminary discussion among the delegations of the Sponsoring Powers brought to light a number of suggested changes. Numerous amendments had been introduced by other delegations, many of which were devoted to providing means for determining which questions are "domestic". The Sponsoring Powers accordingly formed a subcommittee of jurists which recommended the phrasing finally adopted, with one exception based upon a subsequent Australian amendment. The subcommittee also suggested the shifting of the paragraph to Chapter I where it would be included among the Organization's Principles. The recommendations were adopted by the Sponsoring Powers and introduced by them as a joint amendment.

The change may be explained in terms of its four principal consequences:

1. The proviso with reference to domestic jurisdiction becomes a limitation upon all of the activities of the Organization rather than merely a limitation upon the action of the Security Council under Chapter VI of the Charter (which is the equivalent of Section A of Chapter VIII of the Dumbarton Oaks Proposals). Exception was made in the Sponsoring Powers' amendment only for action by the Security Council under Chapter VII of the Charter (the equivalent of Section B of Chapter VIII of the Dumbarton Oaks Proposals). That exception was more apparent than real because action under that Chapter of the Charter can be taken only after the Security Council has determined the existence of a threat to the peace, a breach of the peace, or an act of aggression. The same limi-

tation was applicable under the Dumbarton Oaks formula, in view of its express restriction to Section A of Chapter VIII. If a situation arises on which action under Chapter VII of the Charter is authorized, it would by that very fact be hard to conceive how the matter could any longer be considered "essentially domestic". As discussion of the Sponsoring Powers amendment developed in the Committee of the Conference, however, it was pointed out by the Australian Delegation that Chapter VII of the Charter authorizes the Security Council to take two very different types of action: it can make recommendations or it can resort to enforcement action. The Australian Delegation conceded that if the situation were one involving such a disturbance of the peace as to require measures of enforcement, the Security Council should not be deterred by the argument that a domestic question was involved. It argued, however, that the principle of non-interference in domestic matters should be so phrased as to exclude the inference that the Security Council might make a recommendation to a state concerning the way in which a domestic question should be settled. After very considerable debate, this view prevailed, and the amendment of the Sponsoring Powers was restricted to provide as an exception to the principle of non-interference in domestic questions only the application of enforcement measures under Chapter VII.

To extend this principle to the activities of the Organization as a whole, instead of limiting it to the pacific settlement of disputes as had been proposed at Dumbarton Oaks, seemed desirable because of the amplification of the power and authority given to the Assembly and, particularly, to the Economic and Social Council. Without this general limitation, which now flows from the statement of the principle in Chapter I, it might have been supposed that the Economic and Social Council could interfere directly in the domestic economy, social structure, or cultural or educational arrangements of the member states. Such a possibility is now definitely excluded. The general limitation also qualifies the power of the General Assembly under Article 10 with respect to the making of recommendations to the Members of the Organization.

2. The present text omits the reference to "international law", found in the Dumbarton Oaks Proposals, as the test whether or not a matter is "domestic". This deletion was supported by the argument

that the body of international law on this subject is indefinite and inadequate. To the extent that the matter is dealt with by international practice and by text writers, the conceptions are antiquated and not of a character which ought to be frozen into the new Organization.

3. The language used in the Dumbarton Oaks Proposals excluded matters which are "*solely*" within domestic jurisdiction, whereas the new Charter language excludes intervention in what is "*essentially* within the domestic jurisdiction". It seemed ineffectual to use "*solely*" as a test in view of the fact that under modern conditions what one nation does domestically almost always has at least some external repercussions. It seemed more appropriate to look to what was the essence, the heart, of the matter rather than to be compelled to determine that a certain matter was "*solely*" domestic in character.

4. The new language adds to the Dumbarton Oaks Proposals a provision that the Members shall not be required to submit matters which are essentially within the domestic jurisdiction to "*settlement*" under the Charter. That proviso seemed to be called for in view of the obligation on Members under the third principle to settle their international disputes by peaceful means, although as has been noted, the phrasing of that principle was altered to emphasize this very point. It is quite conceivable that there might be an international dispute with reference to such matters as tariff, immigration, or the like, but where such a dispute relates to matters which are essentially domestic in character, settlement through international processes should not be required. It would of course remain true that under the fourth principle, neither party to the dispute would be justified in resorting to force.

## **MEMBERSHIP (Chapter II)**

Two concepts concerning the basis of membership in the Organization found consideration both before and during the San Francisco Conference. On the one hand, there were those who believed that the Organization should immediately embrace all the states of the world, save the enemy or ex-enemy states. According to this school of thought even these latter were to be admitted at an early stage in the development of the Organization. On the other hand, there were those who held that membership should depend on the fulfillment of certain conditions, leaving it to the Organization itself to decide whether these conditions had been met.

At first sight both the Dumbarton Oaks proposals and the Charter appear to reflect the idea of qualified and limited membership. A closer study of the provisions of the Charter and of the proceedings at the Conference reveals, however, that there is nothing in the Charter which would prevent any state from eventually becoming a member. The Charter thus combines regard for present realities with the hope that some day all the nations will join their efforts in maintaining the peace of the world and in advancing the welfare of their peoples.

### **ORIGINAL MEMBERS AND ADMISSION OF NEW MEMBERS**

The provisions of the Charter regarding membership retain the original text of the Dumbarton Oaks Proposals—"Membership of the Organization is open to all peace-loving states"—but add the further qualification that new Members must accept the obligations of the Charter and that they must, in the judgment of the Organization, be able and ready to carry those obligations out. The original provision empowering the General Assembly to admit new Members upon the recommendation of the Security Council was maintained without change.

The Dumbarton Oaks Proposals made no provision regarding original Members of the Organization. When it was agreed that mem-

bership should be qualified, it was found necessary to provide a clause defining original Members. It was agreed that original membership should include not only the nations which participated in the San Francisco Conference but also those which had previously signed the Declaration by United Nations of January 1, 1942. This formula makes provision for the membership of certain countries which may not technically be called states but which are nevertheless signatories of the United Nations Declaration, as well as of a country such as Poland which was a signatory of the United Nations Declaration but was not represented at the San Francisco Conference.

As suggested above, the idea of qualified and limited membership prevailed only after considerable discussion. The advocates of universality sought to maintain their position by opposing any provisions in the Charter which would limit the possibility of universality, and they particularly directed their attention to the elimination of the Dumbarton Oaks provision on expulsion. While not pressing for a specific insertion in the Charter of a clause prohibiting withdrawal, they urged the adoption of an interpretative statement holding that the absence of a withdrawal clause was to be interpreted as meaning that the right of withdrawal did not exist. They likewise opposed the insertion in the Charter of any rigid qualifications for membership.

## WITHDRAWAL

The United States Delegation was particularly concerned with the question of withdrawal. The Delegation took the position that there should be no explicit provision in the Charter either prohibiting the right of withdrawal or providing for voluntary withdrawal, but considered that an interpretative statement should be incorporated in the proceedings of the Conference explaining the silence of the Charter on this question. The attitude of the Delegation was first set forth in the following statement of Representative Eaton to the Technical Committee on May 21, 1945:

"It is the position of the United States Delegation that there should be no amendment prohibiting withdrawal from the Organization. The memorandum of the Rapporteur of the Drafting Sub-Committee on membership read to this Committee on May 14 suggests that if there is no prohibition of withdrawal, and if the Charter remains silent on this matter, any possibility of lawful

withdrawal is eliminated. That is not my view. Rather, it is my opinion that if the Charter is silent on withdrawal, the possibility of withdrawal would have to be determined in any particular case in the light of the surrounding circumstances at the time."

A number of delegations held that there should be an express provision in the Charter permitting members to withdraw in the event of the entry into force of Charter amendments which they found it impossible to accept. They pointed out that this protection was needed because it might be possible for the Organization, acting through its normal amending procedure, or through a general conference, to increase the obligations of Members without their consent. In reply it was pointed out that under the kind of Organization that was being established, it would not be possible to compel Members to accept amendments to which they had not consented, but that it was not necessary to provide for a specific provision in the Charter to assure them of the right of withdrawal in those circumstances.

It was finally agreed that no provision be made in the Charter for withdrawal, but that a statement regarding it should be included in the report of the Committee handling the subject, so that it might be adopted by the Conference. The text of this statement, in which the United States Delegation concurred, and which was eventually adopted by the Conference, is as follows:

"The Committee adopts the view that the Charter should not make express provision either to permit or to prohibit withdrawal from the Organization. The Committee deems that the highest duty of the nations which will become Members is to continue their cooperation within the Organization for the preservation of international peace and security. If, however, a Member because of exceptional circumstances feels constrained to withdraw, and leave the burden of maintaining international peace and security on the other Members, it is not the purpose of the Organization to compel that Member to continue its cooperation in the Organization.

"It is obvious, particularly, that withdrawals or some other forms of dissolution of the Organization would become inevitable if, deceiving the hopes of humanity, the Organization was revealed to be unable to maintain peace or could do so only at the expense of law and justice.

"Nor would a Member be bound to remain in the Organization if its rights and obligations as such were changed by Charter amendment in which it has not concurred and which it finds itself unable to accept, or if an amendment duly accepted by the necessary majority in the Assembly or in a general conference fails to secure the ratification necessary to bring such amendment into effect."

"It is for these considerations that the Committee has decided to abstain from recommending insertion in the Charter of a formal clause specifically forbidding or permitting withdrawal."

The result of the foregoing is a situation different from that which existed under the League of Nations. The League Covenant recognized withdrawal as an absolute right which any Member could exercise for any reason, or even without reason. In fact, the right was utilized primarily by would-be aggressors. Under the present Charter, withdrawal is permissible but it will have to be justified.

## EXPULSION AND SUSPENSION

A number of delegations urged that the Dumbarton Oaks provision on expulsion be omitted from the Charter. They expressed the view that expulsion applied to a state and not to a government, and accordingly it would be more difficult to readmit a Member once expelled than it would be to suspend the exercise of the rights and privileges of membership, since these might be restored at any time by the Security Council. It was likewise suggested that the retention of the provision on suspension and the omission of the provision on expulsion would in effect impose a more serious penalty upon a recalcitrant Member because such a Member would continue to be bound by the obligations of the Charter. A state which was expelled, on the other hand, would not be so bound and might have greater freedom of action. Those who held this view proposed that the provision on suspension be extended to include the power of the Organization to suspend Members who gravely and persistently violated the principles contained in the Charter. While there was considerable support for this position, it was pointed out by a number of delegations, and particularly by the Delegation of the Soviet Union, that it would be unfortunate to have a Member persistently violating the principles of the Charter while continuing to remain a Member

of the Organization. Such a Member would be like a cancerous growth and ought not, it was thought, to be associated in any way with the Organization. In the end this view prevailed at the Conference, as did the view that the Dumbarton Oaks provision for suspension should also be retained.

## ORGANS (Chapter III)

The structure of international organizations has tended to follow a somewhat uniform pattern. Under this pattern, there is a general body in which all members of the organization are represented, and where they have an opportunity to participate in formulating and carrying out plans and purposes. At the same time, it has been recognized that the many members of such a body cannot efficiently conduct the details of the organization's affairs. Accordingly, there is usually a smaller group which can meet more frequently and apply in specific situations the organization's general rules and principles. It is also clearly necessary to have some kind of staff to arrange the meetings and to attend to the multitudinous details of a continuously functioning organization. Depending upon the type of organization, additional bodies or organs may be added.

The League of Nations was organized in general along the above lines. It has its Assembly, in which all members are represented, its smaller Council, and its Secretariat. In addition, there are in the general framework of the League system a variety of special bodies and committees of which the two most important are the International Labor Organization and the Permanent Court of International Justice.

Chapter IV of the Dumbarton Oaks Proposals listed the principal organs of the proposed organization—a General Assembly, a Security Council, an international court of justice, and a Secretariat. They provided also that the Organization might establish such subsidiary agencies as might be found necessary. Chapter IX of the Dumbarton Oaks Proposals also provided for the establishment of an Economic and Social Council, although this was not listed among the "principal organs".

### ESTABLISHMENT OF ORGANS

At San Francisco the structure of the Organization was discussed in connection with the listing of the principal organs. There was no question of eliminating any of the organs mentioned in Chapter IV

of the Dumbarton Oaks Proposals but it was seen that certain additions ought to be made. By reason of their importance, the Economic and Social Council and the Trusteeship Council were added to the original list of organs prescribed at Dumbarton Oaks.

Each of the principal organs is described in detail in other chapters of this Report. They are established by and listed in Chapter III of the Charter and are referred to here for the purpose of indicating the general structure of the Organization.

Article 7 of the Charter retains the provision which is found in Chapter IV of the Dumbarton Oaks Proposals to the effect that the Organization may establish such subsidiary agencies as may be found necessary. Article 63 provides that the Economic and Social Council, subject to approval by the General Assembly, may enter into arrangements with various specialized intergovernmental agencies having wide international responsibilities in economic, social, cultural, educational, health, and related fields. This provision, in modified form, reproduces the suggestion made in Chapter IX, Section A, Paragraph 2, of the Dumbarton Oaks Proposals. It will depend upon the nature of these organizations and of the agreements entered into with them whether they become agencies or organs of the United Nations or whether they retain their separate existence and special relationship to the United Nations.

## EQUALITY FOR MEN AND WOMEN

Some consideration was given at Dumbarton Oaks to the possibility of providing that positions in the Secretariat be open equally to men and women. It was, however, decided that such a provision, if considered desirable, might be inserted by the Conference at San Francisco. The question of the desirability of this turned out to be the primary issue confronting the Committee of the Conference considering Chapter III of the Charter. While there was no objection to the insertion of an appropriate clause, there was difficulty in agreeing on the exact text. Some delegations felt that such a provision should apply only to the Secretariat. It was argued, however, that a broader provision including other organs and agencies of the Organization would be more desirable. The principal question arose over the wording of an amendment introduced by the Uruguayan Delegation to the effect that "Representation and participation in the

organs of the Organization shall be open both to men and women under the same conditions". This was open to the objection that it implied that Members of the Organization might be obligated to apply the principle in appointing their representatives on various organs of the Organization. It was argued that the Organization could not place restrictions upon Members in the appointment of their own representatives. Consequently, after considerable discussion, it was agreed that it would be more suitable if the Charter merely provided that the Organization should "place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs". This is the phraseology now found in Article 8.

## THE GENERAL ASSEMBLY (Chapter IV)

In the contemporary world, public opinion plays a greater part internationally than it has ever played before. The inter-dependence and inter-relation of peoples and countries may make world problems of problems that develop in any part of the world. At the same time, modern instruments of communication, with the continuing interchange of expression among nations and peoples which they make possible, create a situation in which a true world opinion can form.

It is essential, therefore, that the United Nations, which is designed to play an effective part in the world of our time, should relate itself through appropriate instruments to public opinion. Whatever executive or legal or advisory organs it may possess, it must also provide a forum for discussion. Not to do so would be to deprive the organization of one of the most powerful means at its disposal for the accomplishment of its purpose.

The establishment of such a forum, however, creates obvious difficulties. In the present state, at least, of world opinion, an international legislative body is out of the question, since the several nations are not willing to sacrifice their sovereignty to the extent of permitting an international legislature to enact laws binding upon them or on their peoples. At the same time, an assembly with the power to discuss but without the power to reach conclusions, is not an effective forum for the discussion of real issues or for the focusing of opinion. It was doubtless for this reason, in part, that the Assembly of the League of Nations was given powers which duplicated to a considerable extent those of the Council of the League.

The problem is resolved in the Charter of the United Nations by creating a General Assembly having broad powers of discussion, but possessing at the same time the right to initiate studies and to make recommendations for the purpose of promoting international cooperation. Since the conclusions reached after full discussion and debate by the representatives of fifty or more nations will necessarily carry great influence, the Assembly seems assured of an important role in the formation of world opinion. The successful performance of this

role would require that the proceedings of the General Assembly should not be secret and the Conference took this view. Although the Charter leaves it to the General Assembly to fix its own procedure, Commission II of the Conference urged that the rules of procedure adopted at the first meeting should provide that, "save in exceptional cases, the sessions of the General Assembly shall be open to the public and the press of the world".

The position taken by the United States Delegation with reference to the General Assembly was clearly defined from the beginning of the Conference. From the first Conference question to the last—that is to say, from the question of the organization of the Conference itself to the question of the limits of discussion in the proposed General Assembly—the United States Delegation supported the general proposition that an effective international organization must be constructed on the most broadly democratic basis, if it is to operate effectively. It was a member of the United States Delegation who expressed the hope that the General Assembly would be "the town meeting of the world". It is believed that that hope has been realized in the Charter.

## THE FUNCTIONS AND POWERS OF THE GENERAL ASSEMBLY

In its general structure and competence and in its relations with the other organs of the Organization, the General Assembly remains as it was basically conceived in Chapter V of the Dumbarton Oaks Proposals. However, as a result of the San Francisco Conference the enumeration of the functions attributed to the General Assembly, has been expanded and made more specific. This has had the effect of broadening the range of activity and of making more precise the duties with which the General Assembly will be entrusted.

The functions of the General Assembly may be broadly described as being *to deliberate, to administer, to elect, to approve budgets and to initiate amendments.*

The United Nations is not, of course, a super-state nor is the General Assembly a legislative or law-making body in the usual sense of that term. It is, however, a *deliberative* body which has the right to consider and discuss any subject within the scope of the Charter or relating to the powers and functions of any organs provided in the Charter. With one exception, which is noted later, it

may also make recommendations to the Members of the United Nations or to the Security Council on any such matters (Article 10). The General Assembly will probably not have extended sessions such as the Congress of the United States or the Parliamentary bodies of other countries. It will meet annually and in special session when called (Article 20) and it seems likely that its sessions will not ordinarily run for more than five or six weeks, since the responsible officials who attend its meetings usually cannot be away from their national responsibilities for a greater length of time. Its deliberative character, however, will normally result in the passing of resolutions on the subjects brought before it and it will usually be the duty of the various councils and of the Secretariat to give such effect to these resolutions as they may require. The term "deliberative" therefore is characteristic of its general functions.

The *administrative* functions with which the General Assembly will be endowed include making recommendations for the coordination of policies of the various international economic and social agencies which operate directly under its authority or which are brought into relation with the Organization. (Articles 57, 58, 60). It will establish regulations governing the Secretariat (Article 101). It will have important duties of supervision over areas under trusteeship (Articles 87, 88). Moreover, it will be the organ primarily responsible for the smooth functioning of the entire Organization and for seeing that provision is made for the establishment of such subsidiary organs as will be necessary to carry out its duties (Article 22).

The *electoral* function attributed to the General Assembly places it in a central position in the entire Organization, since most of the other organs will partially or wholly depend upon the election of members by the General Assembly. For example, six of the eleven states members of the Security Council will be periodically elected by the General Assembly (Article 23), as well as the eighteen states members of the Economic and Social Council (Article 61) and some of the members of the Trusteeship Council (Article 86, Paragraph c). In addition, the judges of the International Court of Justice will be elected by the General Assembly concurrently with the Security Council. The Secretary-General will be appointed by the General Assembly upon the recommendation of the Security Council (Article 97). Also on the recommendation of the Security Council, the General

Assembly will admit new members to the United Nations (Article 4).

The *budgetary* function of the General Assembly empowers that body to consider and approve the budget of the Organization as well as any financial and budgetary arrangements with specialized intergovernmental agencies brought into relationship with it, and to apportion overall expenses of the Organization among its Members (Article 17). The allocation to the General Assembly of the task of apportioning the expenses and approving the budgets of the Organization is an extension to the international field of the fundamental principle of democratic government that the purse strings should be held by the most widely representative organ. At the Conference there was some discussion of the desirability of specifying in detail the budgetary procedures and methods of apportioning expenses, but all such suggestions were in the end rejected on the ground that the Charter should be held as much as possible to the description of fundamental powers and functions, and that the General Assembly could safely be left to take care of details through its own subsequent regulations.

The *amending* or constituent function of the General Assembly gives that body power by a two-thirds vote to recommend the adoption of amendments to the Charter itself and to initiate the calling of a general conference for revision of the Charter. Amendments would, however, require ratification by two-thirds of the Members of the United Nations including all the permanent members of the Security Council in order to become effective (Articles 108, 109).

The General Assembly will also have a special *sanctioning* power with respect to Members which fail to carry out their obligations under the Charter. The Assembly is empowered, upon the recommendation of the Security Council, to suspend from the exercise of rights and privileges of membership any Member against which preventive or enforcement action has been taken, and to expel from the Organization any Member which has gravely or persistently violated the principles of the Organization (Articles 5, 6). It is not necessary, however, for the General Assembly to participate in the decision to restore the rights and privileges of a suspended Member. The last point was made, not to detract from the powers of the General Assembly, but rather as a means of facilitating the operation of security measures and to speed the return to full participation in the

Organization of a Member which alters its behavior for the better as a consequence of enforcement measures taken against it.

For assistance in the discharge of any of its functions, the General Assembly may ask the International Court of Justice for an advisory opinion on any legal question (Article 96).

### **Peaceful Adjustment of Situations Likely to Impair the General Welfare**

The part which the General Assembly plays in the peaceful adjustment of situations likely to impair the general welfare can not be completely understood except in connection with its relationship to the Security Council, but the main lines of its activities in this field may be sketched first.

The General Assembly, in being empowered by Article 14 to recommend measures "for the peaceful settlement of any situations, regardless of origin, which it deems likely to impair the general welfare or friendly relations," possesses an additional grant of authority which gives the widest possible latitude to its initiative and statesmanship. The provision resulted from an amendment proposed by the Sponsoring Powers which was approved by the Conference.

Several amendments were submitted to the Conference to provide explicitly that the General Assembly should have the right to recommend the revision of treaties. The able debate on these amendments revolved around the meaning of the phrase "any situations, regardless of origin," as used in Article 14. The United States Delegation took the position that explicit reference to the revision of treaties would throw the weight of the Organization too heavily on the side of revision and encourage change beyond the needs of situations requiring it. It was argued that it is not possible to launch an international organization based on international integrity and at the same time intimate any lack of respect for treaties, which are the principal instruments through which international integrity functions. Indeed, a consideration of the general welfare and friendly relations might call for a recommendation that a treaty should be respected by its signatories rather than that it should be revised. The thousands of treaties in operation as the bond of orderly relations among the nations of the world, should not be weakened by raising doubts about their value or permanence.

On the other hand, if situations exist under treaties which are alleged to impair the general welfare or to threaten friendly relations between nations, or to conflict with the purposes and the principles of the Charter, such situations shall be open to discussion or recommendation by the General Assembly.

It was the view of the United States Delegation, therefore, that the General Assembly should not interest itself in a treaty *per se*, but rather in the conditions and relations among nations which may impair the general welfare or friendly relations among nations. These threats to the general welfare may arise from treaties or from situations having no relation to treaties. In any case, as soon as situations emerge as a threat to the general welfare, they should become a matter of concern to the General Assembly. Thus the broad powers entrusted to the General Assembly will enable it to render effective aid in the difficult process of "peaceful change".

Representatives of many other delegations participated in the debate and there was a wide measure of agreement that the Charter should not contain a specific reference to a power to recommend the revision of treaties. Accordingly, the amendments providing for such a power were not approved.

Another and more specialized function of the General Assembly will enable it to make long range contributions to the peaceful settlement of disputes. Under Article 13 it is given the duty of initiating studies and making recommendations for the encouragement of the progressive development and codification of international law. This clause was inserted in the Charter in response to a general demand that the rule of law among nations should be strengthened. As that law is strengthened, the role of another organ of the United Nations, the International Court of Justice, which is also designed to aid in the cause of pacific settlement, will increase in effectiveness.

## REPRESENTATION AND VOTING

The provisions of the Dumbarton Oaks Proposals that the General Assembly is to consist of representatives of all Members and that each is entitled to one vote, are incorporated in the Charter. Following the suggestion in the Proposals that a maximum number of delegates for each country be stated in the basic instrument, the figure has been set at five. This was considered adequate to provide for

representation of all the Members on the principal committees of the General Assembly (Articles 9, 18).

The provision in the Dumbarton Oaks Proposals for a two-thirds majority in voting on "important questions" (which are listed in the text) and a simple majority for all other questions, was written into the Charter (Article 18). It is significant that no one seriously considered perpetuating the unanimity rule which operated in the League of Nations and in many other international bodies.

The Conference made only one change of substance in the portions of the Dumbarton Oaks text relating to the structure and proceedings of the General Assembly itself. This was to add a provision depriving a Member of the right to vote if it is two years or more in arrears in the payment of its financial contributions. This amendment, which was submitted in various forms by five different Delegations, was adopted with the overwhelming support of the representatives of nations large and small. In order to prevent undue hardship, it has been provided that the General Assembly should have the power to waive the penalty if the non-payment of contributions is due to causes beyond the control of the Member in question (Article 19).

## THE RELATION OF THE GENERAL ASSEMBLY TO THE OTHER PRINCIPAL ORGANS

Perhaps the basic difference between the constitutional arrangement of the United Nations and that of the League of Nations, is that instead of the Assembly and the Council having identical functions, as was the case under the League, the General Assembly and the Security Council will each have different functions assigned to it. The General Assembly is primarily a body for deliberation and recommendation, while the Security Council is given powers to act in the maintenance of international peace and security whenever it deems necessary (Article 11).

A certain inter-action is provided in the relations between the General Assembly and the Security Council. For example, the former may make recommendations to the Security Council in any matters affecting the maintenance of peace and security, provided these matters are not actively being dealt with at the time by the Security Council, but in the latter case the Security Council may ask the assist-

ance of the General Assembly in carrying out its functions (Article 12).

The relations between the General Assembly on the one hand and the Economic and Social Council and the Trusteeship Council on the other are of a different order. Both of these Councils are subordinate to the General Assembly and act under its authority. These Councils will, however, initiate policies and recommendations for the consideration of the Assembly and will have certain administrative functions to carry out on behalf of the Assembly.

The Assembly will be empowered to "receive" and "consider" reports from all three Councils and from other organs. In the case of the Security Council, it is provided that there shall be "annual and special reports" which "shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security" (Article 15). This provision caused considerable debate during the course of the Conference and at one stage the Technical Committee in charge had approved a version of the clause which would have conferred upon the General Assembly the right to approve or disapprove the reports of the Security Council, to make observations or recommendations thereon, and to submit recommendations to the Security Council with a view to ensuring complete observance of the duties of the Security Council inherent in its responsibility to maintain international peace and security. This version was objected to on the ground that it would alter the relationship between the Security Council and the General Assembly by making the Security Council a subordinate body. Consequently the Committee agreed upon the language now incorporated in Article 15 with the understanding that the word "consider" as used therein shall be interpreted as encompassing the right to discuss, and that the power of the General Assembly to discuss and make recommendations as defined elsewhere in Chapter IV, is not to be limited in any way with respect to its consideration of reports from the Security Council.

The budgetary and electoral functions of the General Assembly in relation to each of the Councils emphasizes also the central position of the General Assembly in relation to the other bodies of the Organization.

## **Relationship of the General Assembly to the Security Council**

Some of the amendments submitted to the Conference would have modified essentially the distribution of powers outlined in the Dumbarton Oaks Proposals. In several amendments the General Assembly would have been designated as the primary organ of the Organization, while others were designed to give the General Assembly an equal share with the Security Council in the maintenance of peace and security. In still others the Security Council would have been limited by the constant supervision of the General Assembly in the consideration of methods and measures to maintain peace and security. The substance of these amendments was opposed by the Conference. However, various adjustments were made to perfect the correlation of the General Assembly and the Security Council in matters pertaining to the maintenance of peace and security.

The General Assembly, in addition to its right of free discussion at all times, was granted the authority to address to the governments or to the Security Council, or both, its recommendations on principles and questions pertaining to the maintenance of peace and security. The channelling of recommendations to the governments, as well as to the Security Council, may strengthen the process of recommendation and help to check disputes between nations before they reach an acute stage.

The United Nations Charter follows the provisions of the Dumbarton Oaks Proposals by providing that the General Assembly must, either before or after discussion, refer to the Security Council questions on which action is necessary. The General Assembly is also empowered to call the attention of the Security Council to situations which are likely to endanger peace or security. Until the moment when the question is taken under consideration by the Security Council, the General Assembly may make recommendations, but from that moment until the Security Council ceases to deal with the matter, the General Assembly must not make recommendations with regard to that dispute or situation unless the Security Council so requests.

In order to avoid a situation in which a dispute might be kept on the agenda of the Security Council without being actively considered, a provision was added to the Charter requiring the Secretary-Gen-

eral, with the consent of the Security Council, to notify the Assembly as soon as the Security Council has ceased to deal with such matters.

A clause was also written into Article 12, Paragraph 2, of the Charter providing that the Secretary-General, with the consent of the Security Council, must notify the General Assembly at each session of any matters relative to the maintenance of international peace or security which are being dealt with by the Security Council. These provisions were supported as a means of ensuring that the General Assembly would be kept informed if the Security Council failed to settle a dispute or wished to request a recommendation from the General Assembly. They were also supported on the ground that since all members of the Organization are responsible for assisting in enforcement measures, they are entitled to full information about action that is contemplated or has been taken.

The role of the General Assembly in the maintenance of peace and security can be summarized as follows:

1. The right to consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments;
2. The right to make recommendations to the Members or to the Security Council on such principles;
3. The right to discuss any questions pertaining to the maintenance of international peace and security brought before it by any Member of the Organization, by the Security Council or, in certain cases, by a non-member;
4. The right to make recommendations to the Members or to the Security Council with regard to any such questions;
5. The responsibility to refer questions on which action is necessary to the Security Council either before or after discussion or recommendation;
6. The right to call the attention of the Security Council to situations likely to endanger international peace and security;
7. The obligation not to engage in making recommendations while the Security Council is dealing with a dispute unless the Security Council so requests;
8. The right, subject to the judgment of the Security Council, to be notified of any matters relating to the maintenance of international peace and security which are being dealt with by the Security Council

and to receive notification when the Security Council ceases to deal with such matters;

9. The responsibility to cooperate with the Security Council, upon its request, in steps to preserve or restore peace. Such measures would include the suspension of members against which enforcement action is being taken, the expulsion of members which persistently violate the principles contained in the Charter, and the enlistment of full support for either non-military or military enforcement measures;

10. The right to receive and consider annual and special reports from the Security Council.

These functions of the General Assembly and the relationships between it and the Security Council provide for a maximum utilization of the special qualifications of the General Assembly for effective deliberation and recommendation.

### **Relationship of the General Assembly to the Economic and Social Council**

The responsibility of the General Assembly for the development of more widespread and more effective cooperation among the nations in subjects of mutual interest was stated in Chapter V of the Dumbarton Oaks Proposals. At San Francisco the list of subjects was lengthened to add to the economic and social (as well as the political) fields mentioned in the Proposals, the cultural, educational and health fields, and human rights and fundamental freedoms. This list is not, however, intended to be exhaustive or final (Article 13).

The relationship of the Economic and Social Council to the Assembly in these matters is a subordinate one. Although the Economic and Social Council is itself one of the principal organs of the Organization and is intended to carry on the bulk of the work of the Organization in regard to such matters, it acts always under the authority of the General Assembly. The General Assembly itself is specifically empowered to initiate studies and make recommendations for the purpose of promoting cooperation in all fields within its jurisdiction. This jurisdiction includes the coordination of the activities of specialized agencies brought into relationship with the United Nations, which is effected by the Economic and Social Council partly by direct dealings with the agencies, and partly through recommendations to the General Assembly and to the Members. The General Assembly

would of course be free to act or not to act upon such recommendations as it might see fit.

In the Dumbarton Oaks Proposals, the references to the promotion of respect for human rights and fundamental freedoms was included only in Chapter IX dealing with the Economic and Social Council. In the Charter, however, this responsibility, stated in even broader terms, is mentioned in Chapter IV which relates to the General Assembly, as well as in Chapter X dealing with International Economic and Social Cooperation. It is clear that both organs have responsibility in this field, although again the relationship of the Economic and Social Council to the General Assembly is essentially a subordinate one.

### **The Position of the General Assembly within the Organization**

From the foregoing description it is clear that the General Assembly occupies a central position in the Organization. Although it cannot invade the functions which have been specifically assigned in security matters to the Security Council, it will nevertheless wield great authority and influence throughout all parts of the Organization and will affect the development of basic policies of the entire Organization.

Unlike the functions of the Security Council, which are primarily political and in case of need may be repressive in character, the functions of the General Assembly will be concerned with the promotion of constructive solutions of international problems in the widest range of human relationships, economic, social, cultural and humanitarian. The General Assembly, therefore, may well come to be regarded by all nations as the forum in which their interests can be effectively represented and promoted.

## THE SECURITY COUNCIL (Chapter V)

### INTRODUCTION

There can be no debate after this war, as occurred in 1918, over which country won the war. This war was won not by any one country but by the combined efforts of the United Nations, and particularly by the brilliantly coordinated strategy of the great powers. So striking has been the lesson taught by this unity that the people and Government of the United States have altered their conception of national security. We understand that in the world of today a unilateral national policy of security is as outmoded as the Spads of 1918 in comparison with the B-29's of 1945 or the rocket planes of 1970. We know that for the United States—and for other great powers—there can be no humanly devised method of defining precisely the geographic areas in which their security interests begin or cease to exist. We realize, in short, that peace is a world-wide problem and that the *maintenance* of peace, and not merely its *restoration*, depends primarily upon the unity of the great powers.

There were theoretically two alternative means of preserving this unity. The first was through the formation of a permanent alliance among the great powers. This method might have been justified on narrow strategic grounds, but it would have been repugnant to our traditional policy. It also would have contained elements of danger because it might well have been interpreted as a menace by nations not party to it. Accordingly, this method was rejected.

The second method was through the establishment of a general security system based upon the principle of sovereign equality of all peace-loving states and upon the recognition of the predominant responsibility of the great powers in matters relating to peace and security. This was the policy adopted by this Government as reflected in the Moscow Declaration of October 30, 1943, in which the Four Nations declared:

"That their united action, pledged for the prosecution of the war against their respective enemies, will be continued for the organization and maintenance of peace and security . . . .

"That they recognize the necessity of establishing at the earliest practicable date a general international organization, based on the principle of the sovereign equality of all peace-loving states, and open to membership by all such states, large and small, for the maintenance of international peace and security."

In the framework of the United Nations, the provisions for the General Assembly give recognition to the principle of the sovereign equality of all nations. The provisions for the Security Council recognize the special responsibilities of the great powers for maintaining the peace and the fact that the maintenance of their unity is the crucial political problem of our time.

### PURPOSE OF THE SECURITY COUNCIL

The Security Council is that agency of the Organization which is charged with the principal responsibility and empowered to take the necessary action for the maintenance of international peace and security. It is so organized as to afford full opportunity for the great powers to maintain in the post-war era their essential unity. It is to be in continuous session in order to assure that at all times it feels the pulse of the world and is prepared to take appropriate remedial measures when the earliest symptoms of irregularity become apparent.

The responsibilities of the Security Council are two-fold: primarily to induce, by every conceivable method, peaceful solutions of international disagreements; and, secondly, as a last resort, to apply force, even to the employment of military measures, in order to maintain peace or to suppress any breach of the peace. The manner in which the Security Council will undertake to perform its functions of pacific settlement and enforcement are set forth in Chapters VI, VII, and VIII. With the exception of Article 26, which specifically assigns responsibility to the Security Council for formulating plans for the regulation of armaments, Chapter V is concerned with the fundamental structure and powers of the Security Council. It is this aspect of the Council that is dealt with here.

## THE SPECIAL POSITION OF THE GREAT POWERS IN THE COUNCIL

It was taken as axiomatic at Dumbarton Oaks, and continued to be the view of the Sponsoring Powers at San Francisco, that the cornerstone of world security is the unity of those nations which formed the core of the grand alliance against the Axis. Their continuous consultations in San Francisco with resultant unity on main Conference issues were one of the outstanding features of the Conference and augur well for the future. We cannot base our national policy solely on independent action. We can support our interests effectively in Europe and Asia only by patient consultations through which we will extend the area of agreement among the great powers. Only by such discussions will our influence be felt.

Within the United Nations, the Security Council is the vehicle for continuing and developing this process of consultation. In this respect, it is without precedent in international relations; it differs from the traditional alliance and is unlike the Council of the League of Nations. It will provide us with an effective means of direct participation in the discussion of issues which may vitally affect our own strategic interests. The prestige of the Security Council, its influence in world affairs generally, and its success in the maintenance of peace and security will depend upon the degree to which unity is achieved among the great powers.

The special position accorded to the most powerful nations is reflected in the composition of the Security Council and in the character of its voting procedure. Both of these issues involved the problem of establishing a satisfactory working relationship with the smaller nations. In addition, the question of voting raised the problem of the proper form in which to cast the relationship of the great powers among themselves.

### Permanent Members

The long-standing problem of the proper kind of relationship to establish between greater and smaller powers presented itself in unprecedentedly acute form because of the dramatic way in which the present war has demonstrated the importance not only of population and space, but of resources and industrial development, in the successful control of potential or actual aggression. At Dumbarton Oaks

the Sponsoring Powers had provided for a Security Council of eleven members in which the five leading powers among the United Nations would have permanent seats. This provision for permanent membership was approved at San Francisco (Article 23, paragraph 1). Proposed amendments, a few of which would have abandoned the concept of permanent members but most of which were designed to increase the number of such members, did not command substantial support.

### **Non-Permanent Members**

It was decided at Dumbarton Oaks to propose that a majority of the seats on the Security Council should be occupied by smaller states to be elected for two-year terms by the General Assembly. To assure a measure of rotation in the election of such states, it was provided that a retiring member could not be eligible for immediate re-election. In this manner the Sponsoring Powers recognized that the concern for international peace and security is of necessity a general one, and that, therefore, the interests of all states should be taken into account.

A large number of amendments were submitted at San Francisco with the purpose of enlarging the Security Council by increasing the number either of permanent or of non-permanent members, or both. Other amendments would have required the additional members to be selected from a particular region or regions. Still others would have abandoned the idea of permanent, in favor of non-permanent, membership.

The United States and the other Sponsoring Powers pointed out the importance of making a sharp distinction between the functions of the Security Council and those of the General Assembly, and the consequent necessity of keeping the Security Council small in the interest of efficiency. The majority opinion in the Conference supported this point of view, and the Dumbarton Oaks provision on membership was accepted. (Article 23, paragraph 1).

### **Participation of Non-Members of Security Council**

While the number of full-participating members of the Security Council was fixed at eleven in the Dumbarton Oaks Proposals, provision was also made for the participation of any Member of the

Organization in the discussion of any question which the Council deems specially to affect the interests of that Member. Further, the Security Council was obligated to invite any Member of the Organization not having a seat on the Council and any state not a Member of the Organization to participate in discussion, if it is party to a dispute under consideration in the Council. These provisions were incorporated in the present Charter (Articles 31 and 32). Various amendments of these provisions were presented to the Conference. One would have left the Security Council no discretion to determine whether the interests of a given state may be affected. Others would have placed all parties to a dispute on an equal basis with members of the Security Council in respect to voting and other matters. These amendments were defeated, but the Conference adopted a proposal of the Sponsoring Powers that, in the case of a non-member of the Organization, the Security Council shall lay down the conditions for the participation of such non-member in its deliberations.

Furthermore, the Conference adopted, in accordance with a Canadian suggestion, the very important amendment incorporated in Article 44, which is discussed under the heading "No Taxation Without Representation" in Chapter VII.

### Election of Non-Permanent Members

Other proposals made at San Francisco were concerned not with the number of non-permanent members, but with the criteria to be employed by the General Assembly in electing them. Those states which might be classified as "middle" powers by virtue of the nature of their contributions to the prosecution of the present war, took the position that it was entirely in accord with the philosophy of the Security Council, and, indeed, a necessary element in its successful functioning, that their eligibility for election as non-permanent members be given special recognition. At the same time, there was a strong sentiment in favor of explicitly recognizing the desirability of an equitable geographical distribution among the non-permanent members.

In response to these views, the Sponsoring Powers took the initiative in proposing, and the Conference adopted, an amendment which provides that the General Assembly shall elect the non-

permanent members of the Security Council in accordance with two principles: "due regard being specially paid, in the first instance to, the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution". (Article 23, paragraph 1).

## VOTING IN THE SECURITY COUNCIL

Even more than the composition of the Council, the voting procedure highlights the special position of the great powers.

The Yalta voting formula provides for a system of qualified majority voting in the Security Council, which represents an advance over the procedure in the Council of the League of Nations. In no instance is the unanimous vote of all of the members of the Council required; in all cases a majority vote of seven is sufficient to take decisions. When the question under consideration is one of procedure, the vote of any seven members, whether permanent or non-permanent, determines the position of the Security Council. On all other matters, decisions of the Council must be made by an affirmative vote of seven members including those of all of the permanent members, except that in decisions with respect to peaceful settlement of disputes (Articles 33 to 38) a party or parties to a dispute must abstain from voting.

The issue of the voting procedure in the Security Council was the most difficult one which confronted the nations in the preparation of the Charter. At Dumbarton Oaks it was not possible to reach agreement on these issues, which bring into sharpest focus the entire problem of the adjustment of the relations among the great powers, and between them and the other nations of the world. While there was no question at Dumbarton Oaks as to the necessity of unanimity of the great powers with respect to enforcement action, it was not possible to reach agreement on other aspects of voting procedure and consequently the entire matter was left open. The Dumbarton Oaks Proposals were completed in respect of voting procedure at the Crimea Conference in February, 1945, when President Roosevelt submitted a proposal which was approved by Marshal Stalin and Prime Minister Churchill, and later accepted by China. The principal decision made at Yalta was that the unanimity

requirement should apply to procedures of pacific settlement but that it should not be carried to the extent of permitting a member of the Security Council to take part in deciding a case to which it is a party. Therefore, it was agreed that any party to a dispute must abstain from voting. Both then and subsequently the United States favored strongly the requirement of abstention because it would facilitate the consideration of disputes in the Security Council.

The voting procedure in the Security Council became one of the most controversial issues of the Conference. The special voting rights of the great powers were vigorously attacked by the smaller powers on the ground that the so-called veto, particularly as applied to decisions at the stage of peaceful settlement, is unreasonable and might result in many cases in the inability of the Security Council to take jurisdiction of situations the treatment of which would then be shifted outside the Security Council. For the various reasons referred to below, the great powers strongly supported the Yalta voting formula and it was ultimately accepted by the Conference without change. It constitutes Article 27 of the Charter.

During the debate on the voting formula, the smaller powers asked a series of questions as to its application, and a Subcommittee was created for the purpose of clarifying the doubts which had arisen in the Committee discussion. It was decided to prepare and address to the Sponsoring Powers a formal questionnaire on the subject. Upon the receipt of this questionnaire, the delegations of the Sponsoring Powers began the preparation of a joint statement designed to interpret the formula officially, insofar as such an interpretation of a basic constitutional provision could appropriately be made in advance of its adoption and without any practical experience as to the operation of the Organization or the Security Council.

In the course of the preparation of this statement there arose a point on which the Sponsoring Powers differed. They were at all times fully in agreement that the text of the Yalta formula must be approved without change and that the rule of unanimity of the permanent members should apply to decisions of the Security Council during the stage of peaceful settlement as well as during enforcement. However, a question of interpretation arose as to whether under the formula any one permanent member, not a party to a given dispute, could prevent the consideration and discussion of

such dispute by the Council. The Department of State between the time of the Crimea Conference and San Francisco, had issued an official statement interpreting the Yalta voting formula in the sense that no one member could prevent such discussion. The United States Delegation placed considerable importance upon this interpretation and its views were shared by the delegations of the United Kingdom, China and France. The Delegation of the Soviet Union expressed the opinion during the preparation of the joint statement that the discussion and consideration of a dispute in the Security Council should be considered a substantive, rather than a procedural, matter. In the exchange of views which occurred on this important point the United States Delegation stressed the imperative necessity of providing for full discussion and consideration of any situation brought before the Security Council before any one permanent member could prevent further action by the Security Council with respect to the dispute. After full deliberation the Delegation of the Soviet Union agreed to this viewpoint, and complete agreement was therefore reached among the great powers on this basic question.

There follows the principal portion of the joint statement of the Sponsoring Powers with which France associated itself. (The Chapters referred to in the first four quoted paragraphs are those of the Dumbarton Oaks Proposals.)

"1. The Yalta voting formula recognizes that the Security Council, in discharging its responsibilities for the maintenance of international peace and security, will have two broad groups of functions. Under Chapter VIII, the Council will have to make decisions which involve its taking direct measures in connection with settlement of disputes, adjustment of situations likely to lead to disputes, determination of threats to the peace, removal of threats to the peace, and suppression of breaches of the peace. It will also have to make decisions which do not involve the taking of such measures. The Yalta formula provides that the second of these two groups of decisions will be governed by a procedural vote—that is, the vote of any seven members. The first group of decisions will be governed by a qualified vote—that is, the vote of seven members, including the concurring votes of the five permanent members, subject to the proviso that in decisions under Sec-

tion A and a part of Section C of Chapter VIII parties to a dispute shall abstain from voting.

"2. For example, under the Yalta formula a procedural vote will govern the decisions made under the entire Section D of Chapter VI. This means that the Council will, by a vote of any seven of its members, adopt or alter its rules of procedure; determine the method of selecting its President; organize itself in such a way as to be able to function continuously; select the times and places of its regular and special meetings; establish such bodies or agencies as it may deem necessary for the performance of its functions; invite a member of the Organization not represented on the Council to participate in its discussions when that Member's interests are specially affected; and invite any state when it is a party to a dispute being considered by the Council to participate in the discussion relating to that dispute.

"3. Further, no individual member of the Council can alone prevent consideration and discussion by the Council of a dispute or situation brought to its attention under paragraph 2, Section A, Chapter VIII. Nor can parties to such dispute be prevented by these means from being heard by the Council. Likewise, the requirement for unanimity of the permanent members cannot prevent any member of the Council from reminding the members of the Organization of their general obligations assumed under the Charter as regards peaceful settlement of international disputes.

"4. Beyond this point, decisions and actions by the Security Council may well have major political consequences and may even initiate a chain of events which might, in the end, require the Council under its responsibilities to invoke measures of enforcement under Section B, Chapter VIII. This chain of events begins when the Council decides to make an investigation, or determines that the time has come to call upon states to settle their differences, or makes recommendations to the parties. It is to such decisions and actions that unanimity of the permanent members applies, with the important proviso, referred to above, for abstention from voting by parties to a dispute.

"5. To illustrate: in ordering an investigation, the Council has to consider whether the investigation—which may involve calling for reports, hearing witnesses, dispatching a commission of inquiry,

or other means—might not further aggravate the situation. After investigation, the Council must determine whether the continuance of the situation or dispute would be likely to endanger international peace and security. If it so determines, the Council would be under obligation to take further steps. Similarly, the decision to make recommendations, even when all parties request it to do so, or to call upon parties to a dispute to fulfill their obligations under the Charter, might be the first step on a course of action from which the Security Council could withdraw only at the risk of failing to discharge its responsibilities.

"6. In appraising the significance of the vote required to take such decisions or actions, it is useful to make comparison with the requirements of the League Covenant with reference to decisions of the League Council. Substantive decisions of the League of Nations Council could be taken only by the unanimous vote of all its members, whether permanent or not, with the exception of parties to a dispute under Article XV of the League Covenant. Under Article XI, under which most of the disputes brought before the League were dealt with and decisions to make investigations taken, the unanimity rule was invariably interpreted to include even the votes of the parties to a dispute.

"7. The Yalta voting formula substitutes for the rule of complete unanimity of the League Council a system of qualified majority voting in the Security Council. Under this system non-permanent members of the Security Council individually would have no 'veto'. As regards the permanent members, there is no question under the Yalta formula of investing them with a new right, namely, the right to veto, a right which the permanent members of the League Council always had. The formula proposed for the taking of action in the Security Council by a majority of seven would make the operation of the Council less subject to obstruction than was the case under the League of Nations rule of complete unanimity.

"8. It should also be remembered that under the Yalta formula the five major powers could not act by themselves, since even under the unanimity requirement any decisions of the Council would have to include the concurring votes of at least two of the non-permanent members. In other words, it would be possible for

five non-permanent members as a group to exercise a 'veto'. It is not to be assumed, however, that the permanent members, any more than the non-permanent members, would use their 'veto' power wilfully to obstruct the operation of the Council.

"9. In view of the primary responsibilities of the permanent members, they could not be expected, in the present condition of the world, to assume the obligation to act in so serious a matter as the maintenance of international peace and security in consequence of a decision in which they had not concurred. Therefore, if a majority voting in the Security Council is to be made possible, the only practicable method is to provide, in respect of non-procedural decisions, for unanimity of the permanent members plus the concurring votes of at least two of the non-permanent members.

"10. For all these reasons, the four sponsoring Governments agreed on the Yalta formula and have presented it to this Conference as essential if an international organization is to be created through which all peace-loving nations can effectively discharge their common responsibilities for the maintenance of international peace and security".

By the time the joint statement was presented to the Committee it appeared that there was no serious disposition on the part of other delegations to press certain amendments designed to eliminate the rule of unanimity of the great powers with respect to enforcement action. The only open question then as to voting procedure was in connection with peaceful settlement. Many delegations had proposed amendments to alter the voting procedure, several of them with the idea of removing the process of pacific settlement from the requirement of unanimity of the permanent members. This was the purpose of an Australian amendment, which, when offered originally, had enlisted the support of several other delegations, and, in a revised form, provided the test of conference sentiment on this problem after the issuance of the Sponsoring Powers' statement. The amendment was rejected, although many delegations abstained when the vote was taken.

During the course of the debate on the Australian amendment and the voting formula itself, it was stressed by the great powers that their special voting position would be used with a great sense of

responsibility and consideration of the interests of the smaller nations and that therefore the "veto" would be used sparingly. The eyes of world opinion will be directed upon the Security Council in all of its deliberations with respect to the maintenance of peace and security. Any misuse of the voting procedure would offend this great weight of opinion and impair the development of the prestige upon which the ultimate success of the Organization will depend. Since the great powers have carried the brunt of two great wars in one generation, their interest in building a strong and effective organization will surely make them ever conscious of maintaining this prestige.

Finally, it was emphasized that in the consideration of the problem, the aspect of formal voting in the Council should not be over-emphasized in relation to the process of careful discussion and examination of alternative methods of procedure which in the vast majority of cases could be expected to result in agreement among the great powers. It was pointed out in this connection that for many months the great powers have been working together in the formulation of this Charter and that their efforts thus far have produced complete unanimity without the taking of formal votes.

### THE SECURITY COUNCIL'S PRIMARY RESPONSIBILITY FOR MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY

In addition to the special position accorded the great powers, a distinguishing characteristic of the Security Council is that, in relation to other parts of the Organization, it has primary responsibility for international peace and security. The League of Nations Covenant granted concurrent jurisdiction of the Council and the Assembly with respect to the peaceful settlement of disputes and the taking of enforcement action, whereas the Members of the United Nations in the first paragraph of Article 24 "confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf". This feature of the Dumbarton Oaks Proposals was incorporated in the final Charter without change, after the defeat of various amendments which attempted to place a share of the ultimate responsibility for peace and security on the General Assembly. All of these proposals,

which ranged from assignment of primary responsibility to the General Assembly to the granting of a negative veto to the General Assembly over decisions of the Security Council, were rejected by large majorities. However, as described in Chapter IV of this Report, other amendments were adopted which clarify the relationship between the Security Council and the General Assembly.

One of the most difficult problems in this connection had to do with the nature of the reports to be submitted by the Security Council to the General Assembly and the extent of the latter's authority with respect to such reports. In the end an amendment was adopted which provided that the Security Council shall submit annual and where necessary special reports to the General Assembly (Article 24, paragraph 3); that these reports shall include an account of the measures which the Security Council has decided upon or taken to maintain international peace and security; and that the General Assembly shall receive and consider the reports. (Article 15).

In another important respect the functions of the General Assembly and the Security Council are interrelated and placed in scale. Under Article 11, the General Assembly may consider the "principles governing disarmament and the regulation of armaments." Under Article 26, the Security Council with the assistance of the Military Staff Committee, is responsible for formulating "plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments." This responsibility is placed on the Security Council in order "to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources".

### THE BINDING EFFECT OF DECISIONS OF THE SECURITY COUNCIL

A third characteristic of the Security Council is to be found in the principle set forth in the Dumbarton Oaks Proposals and incorporated without change in Article 25, which reads as follows: "The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter". This is an important complement to the Security Council's

responsibility for decisions relating to enforcement measures. It is a sharp departure from the League of Nations Covenant, inasmuch as each member of the League could determine for itself whether or not it would in any particular situation participate in sanctions.

It is to be noted that the members of the Organization agree to carry out the decisions of the Security Council "in accordance with the present Charter". Thus the precise extent of the obligation of members under Article 25 can be determined only by reference to other provisions of the Charter, particularly Chapters VI, VII, VIII and XII (Article 24, paragraph 2). Decisions of the Security Council take on a binding quality only as they relate to the prevention or suppression of breaches of the peace. With respect to the pacific settlement of disputes, the Council has only the power of recommendation. Moreover, with respect to enforcement measures, the character and amount of military assistance which members of the organization place at the disposal of the Council will be governed by the terms of special agreements which are provided for in Article 43.

Thus the obligation of Members of the Organization to carry out decisions of the Council is made the subject of precise definition, while the Council, for its part, is under obligation by Paragraph 2 of Article 24 to act, in discharging its duties "in accordance with the purposes and principles of the United Nations". The framework of the purposes and principles within which the Security Council is to take its decisions is set forth in Chapter I. Among the Purposes it is stated that the adjustment or settlement of international disputes shall be brought "about by peaceful means, and in conformity with the principles of justice and international law. . . .". Moreover, it is set forth as one of the Principles that "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations". It is, of course, a recognized principle of legal interpretation that a document is to be construed as a whole, and it was brought out in the debates at San Francisco that general provisions of the Charter must be read in conjunction with specific definitions of rights and obligations.

## CONCLUSION

The foregoing description of the Security Council serves to emphasize its unique character. It is not a traditional alliance in that it is an integral part of a general international organization. It is hardly even "quasi-judicial" in its conciliatory function because of the latitude permitted for the play of political considerations. Its functions are mixed and, therefore, it cannot be characterized exclusively as a police body. Its novel character is matched only by the unprecedented conditions of the international relations of our time.

## PACIFIC SETTLEMENT OF DISPUTES (Chapter VI)

### INTRODUCTION

Of all the technical committees which did the real work at the San Francisco Conference, one which attracted a minimum of public attention was the Committee on Peaceful Settlement which was responsible for Chapter VI of the Charter. It is conflict which is dramatic and demands attention, and there is by definition no conflict in peaceful settlement. The popular attention was focused on novelty, and machinery for peaceful settlement of disputes is no novelty. The committee was dealing with old issues, with matters which have been the subject of many international conferences in the last half-century, with problems on which there is a large library of weighty tomes and a large area of common agreement.

To Americans in particular, peaceful procedures for the settlement of disputes are thoroughly familiar. From the earliest days of the Republic, this country was a leading contributor to the development of such procedures; the Jay Treaty of 1794 and the Alabama Claims Arbitration of 1872—to name but two—are still landmarks in the development of techniques for pacific settlement of controversies between nations.

During the twentieth century the development of methods for peaceful settlement has progressed apace. Beginning with the Hague Conference of 1899 and reaching its highest mark to date in the rules and procedures of the League of Nations, this development has attained a stage of advancement at least as great as that in any field of international cooperation. During this period, the record of the United States in the actual settlement of disputes was not inferior to that of other states but this government was not willing, as other states had come to be willing, to accept in advance commitments to follow prescribed procedures of pacific settlement.

In general the development has followed two channels: arbitration or judicial settlement for disputes of a legal character, and conciliation for other types of differences. In both cases a majority of the states

of the world community were obligated to submit their disputes to one procedure or the other.

The peaceful procedures delineated in the host of bilateral and multilateral treaties which have been signed in the past half-century have been extremely useful in settling a large number of minor controversies, but with few exceptions they proved inadequate to the task of coping with critical disputes. What then are the prospects for development under Chapter VI of the United Nations Charter?

The answer to that question may be found, not in this Chapter but in the following one, which grants the Security Council, power to coerce states when, refusing to follow peaceful procedures to ultimate settlement of disputes, they attempt to gain their ends by force or threat of force. This sanction for the Security Council's recommendations under Chapter VI gives new meaning to the old procedures for peaceful settlement which are embodied in this Chapter. If the security functions of the organization develop over the years, as they can with the cooperation of the nations and peoples of the world, emphasis on peaceful settlement will grow too, and do so, paradoxically as it may at first appear, precisely because the Security Council possesses under Chapter VII the power to take enforcement action.

### DUMBARTON OAKS PROPOSALS

Effective means for the peaceful settlement of disputes between nations obviously are essential to any international organization for the maintenance of peace and security. The Dumbarton Oaks provisions relating to peaceful settlement were based upon the lessons learned over centuries and more particularly upon those from the experience of the League of Nations.

The specific clauses are in Chapter VIII, Section A of the Dumbarton Oaks Proposals and Chapter VI of the Charter, but they must be read in the light of other provisions. First of all, the Members of the United Nations are obligated, under paragraphs 3 and 4 of Article 2, to "settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered", and "to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state". Then, in a marked advance

over the League Covenant, which gave Council and Assembly concurrent jurisdiction, the Security Council is given primary responsibility for the maintenance of international peace and security, the General Assembly's role in connection with disputes being definitely limited.

The authors of the Dumbarton Oaks Proposals did not intend to require that states should settle all their disputes. Encouragement and means were provided to that end in Paragraphs 2 and 3 of Chapter VIII, Section A; but the only disputes which states were to be obligated to settle were those whose continuance was likely to endanger peace. This obligation was preceded, in the Dumbarton Oaks Proposals, by a blanket power given to the Security Council to investigate disputes for the purpose of deciding whether their continuance might endanger peace. Any state was to have the right to bring such a dispute before the Security Council or before the General Assembly.

Various methods of settlement were stated for illustration, such as negotiation, mediation, conciliation, arbitration, or judicial settlement. States, however, were to be free to settle the dispute by means of their own choice, and the Security Council could, in this first stage, do no more than urge the parties to adopt some such means.

If the parties failed to reach a settlement by such means, they were to be obligated to refer the dispute to the Security Council which, however, could do no more than recommend methods or procedures of adjustment. It was expected that the Council would refer justiciable disputes to the Court, and have the right to ask advisory opinions of the Court on legal questions before it.

Paragraph 7 of Chapter VIII, Section A provided that none of the above procedures should apply to matters which, under international law, are solely within the domestic jurisdiction of the state concerned. At San Francisco, the domestic jurisdiction provision was modified and it was transferred to the Chapter on Purposes and Principles where it now appears as Paragraph 7 of Article 2.

## CHANGES AT SAN FRANCISCO

While the substance and essential framework of all the Dumbarton Oaks provisions for peaceful settlement were retained in the Charter as finally written at San Francisco, several important additions were

made. Perhaps the most important, at least so far as the Security Council is concerned, is that now found in Article 37, by which the Security Council can recommend not only methods and procedures of peaceful settlement, but the actual terms of settlement as well. This was one of the amendments submitted early in the Conference by the Sponsoring Powers. The power to recommend terms of settlement, as distinct from procedures, comes into play when the parties to a dispute have failed to settle it by means of their own choice and have referred it to the Security Council.

The parties are not obligated at this stage of a dispute to accept the terms of settlement recommended by the Security Council, any more than they are obligated to accept the Council's other recommendations. If, however, their failure to do so results in a threat to the peace, then the enforcement provisions of Chapter VII come into play.

Amendments were offered at San Francisco, the principal one by the Mexican Delegation, to give the General Assembly equal authority with the Security Council in the peaceful settlement of disputes. These amendments were rejected because the technical committee on pacific settlement, like other committees, upheld the principle of separation of powers between the Security Council and the General Assembly which had been adopted at Dumbarton Oaks. This left with the Security Council that primary responsibility for the maintenance of peace and security which is fundamental to the whole structure of the United Nations, although the powers of the General Assembly to assist in the peaceful settlement of disputes and in the peaceful adjustment of situations which might give rise to disputes were broadened at San Francisco.

Other amendments were offered to distinguish between legal and political questions, and to require the submission of the former to judicial settlement. Most of these were answered by the decision in another committee not to give compulsory jurisdiction to the International Court of Justice.

A similar effort was made to restrict the freedom of the Security Council by proposing that it be limited in its decisions by reference to principles of international law or justice. These were opposed by the United States and other nations on the ground that due observance of justice and of international law was assured by Articles 1

and 2, as revised, and that the Security Council should not be hampered by detailed direction of its activities. The Conference agreed with this position.

A further pertinent amendment was made in the Committee on Regional Arrangements, which added resort to regional arrangements or agencies to the other methods of peaceful settlement specified in Article 33. "Enquiry" was also included as one of these methods.

Considerable attention was devoted to rearranging the sequence of the paragraphs on peaceful settlement in the interest of greater clarity. Under the new arrangement, the chapter logically begins with the provision (Article 33) that states shall settle their disputes by means of their own choosing, including the various procedures specified therein. This obligation is still restricted to disputes whose continuance might endanger peace, but provision is made in Article 38 for settling all types of disputes if the parties so request.

Article 34 authorizes the Security Council to investigate, not only disputes likely to endanger the peace, but also "any situation which might lead to international friction or give rise to a dispute". Moreover, by the next article, any member of the United Nations may bring any such situation or dispute to the attention of the Security Council or the General Assembly. Thus, ample provision is made for getting a menacing dispute or situation before the proper organs. As a result of an amendment made by the Sponsoring Powers, a provision was added to Article 35 which would require any non-member which brings a dispute before the Security Council or the General Assembly to accept the obligations of pacific settlement contained in the Charter. After a dispute is brought before the Security Council, the decision to discuss and consider it is to be taken by a vote of any seven members of the Security Council, but the rule requiring a unanimous vote of the permanent members of the Security Council plus at least two other members, will operate in relation to any decision to make an investigation of the matter, and to subsequent decisions under this Chapter (subject to the provision that a party to a dispute shall not vote).

At any stage, the Security Council may recommend to the parties appropriate procedures or methods of adjustment. Two changes in the Dumbarton Oaks text occur here. The first change exhorts the

Security Council to take into consideration the procedures which have already been adopted by the states themselves. The second change makes it clear that, while legal disputes should normally be referred to the Court, it is only the parties to the dispute which can so refer them; the Security Council can only recommend that this be done.

Another, and important, stage is reached with Article 37, under which, as above stated, the Security Council may take up a dispute if the parties have failed to reach a settlement by their own means and if the Security Council "deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security". The Council may now recommend either procedures or actual terms of settlement, but it does not have the power to compel the parties to accept these terms. It has power to enforce its decisions only after it has determined under the provisions of Chapter VII that a threat to the peace, a breach of the peace or an act of aggression exists. These provisions are analyzed in the following chapter of this Report.

## SIGNIFICANCE OF THE CHAPTER

Chapter VI is the core of the provisions found in the Charter for pacific settlement of disputes but, as has been noted, there are related provisions in many other parts of the document. Taken as a whole, it is a comprehensive system. Every assistance is provided to the nations themselves to settle their troubles peacefully. The right of the Security Council to intervene develops by carefully graduated stages only as it becomes necessary to do so for the maintenance of peace. The General Assembly has wide powers to watch over the conduct of the member states, and new avenues have been opened which can remove the causes of disputes even before they arise. The judicial settlement of legal questions is encouraged and the optional clause in the Statute of the Court makes possible, as regards those states which accept it, a wide degree of compulsory jurisdiction over such disputes. If member states fail in the end to settle their disputes peacefully, and this failure is regarded as a threat to the peace, the authority of the Security Council carries on, under Chapter VII of the Charter, to the use of force.

In comparison with the League of Nations system, the Charter provisions for peaceful settlement are both stronger and more flexible. Primary responsibility is centered in the Security Council, in distinction to the concurrent jurisdiction given to the Council and the Assembly under the League Covenant. As has been shown in Chapter V of this Report, much greater power is available to the Security Council under the Charter than to the League Council under the Covenant to act effectively when any dispute or situation becomes a threat to the peace.

It is clearly an advantage, from the viewpoint of decisive action, that the Security Council is not so restricted as the Council of the League, in determining what is a threat to the peace, breach of the peace, or act of aggression. Under the League system there had to be "resort to war, in disregard of . . . covenants under" certain designated articles of the Covenant. The Charter of the United Nations, on the other hand, leaves the Security Council free, within the purposes and principles of the Organization, to determine whether any situation is a threat to the peace.

Finally, the Security Council of the United Nations, when it has decided that a threat to the peace exists, has at its disposal much more effective economic and military powers than were available to the League. Since these powers are ready to be used if a threat to the peace results from the failure of member nations to live up to their obligation to settle disputes peacefully, the fact of their existence increases the chances that the Security Council can bring about a peaceful settlement which will make the use of force unnecessary.

The obligations for peaceful settlement undertaken by the Members of the United Nations under the Charter are much the same as those under the League of Nations Covenant. But the means provided for fulfilling these obligations are better and the sanctions that will follow failure to fulfill them are far stronger. Nevertheless, as the experience of the League showed, the success or failure of the United Nations will in the last analysis depend not upon the terms of the Charter, but upon the willingness of members to meet their responsibilities. All the Charter can do is to increase the chances for success. That has been done. But only the member states, by their conduct, can assure success. If they do, the use of force will atrophy, and conflicts among nations will be settled by peaceful means.

# ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

## (Chapter VII)

### INTRODUCTION

Chapter VII of the Charter provides the teeth of the United Nations. While the novel quality of the enforcement measures envisaged in that Chapter may attract undue public attention at the expense of other vital functions of the Organization, the fact remains that upon the confidence which member states repose in the efficacy of the measures designed to halt aggression—a confidence which may have to meet the test of successive crises—the survival of the entire Organization and of world peace itself must ultimately depend. Certain other provisions of the Charter which have undergone the most intensive public scrutiny and debate, such as the so-called Yalta voting formula, derive much of their importance from the manner in which they may affect or be affected by the operation of Chapter VII.

In this Charter, governments have for the first time undertaken to conclude agreements to provide armed forces and attendant facilities to be used on the call of an international agency in enforcing international peace and security. The acceptance of these provisions by the United States will mark the formal assumption by it for the first time of responsibility for maintaining world security, and will constitute concrete evidence of the recognition by this country that its own security is founded upon its cooperation with other countries in the maintenance of world peace.

This will represent a notable change in our foreign policy and in our military policy. But if it means a far-reaching commitment, entailing expense and some limitation on our freedom of action, it must be weighed against what it is designed to prevent—the appalling cost in men and material wealth of another war. Nor can we overlook the fact that other states, not so powerful as we, will assume relatively heavy obligations without retaining the large measure of control which the United States will enjoy as one of the permanent members of the Security Council.

The thirteen articles of Chapter VII, which follows closely Chapter VIII, Section B, of the Dumbarton Oaks Proposals, fall into four groups. Articles 39-42 endow the Security Council with the powers necessary to deal effectively with threats to the peace and with breaches of the peace and acts of aggression. The next five articles contain all the provisions designed to enable the Council to employ military measures swiftly and effectively. Then follow in Articles 48, 49 and 50, the obligations of the Members in respect of enforcement action and a provision designed to assist Member states which encounter special economic problems in fulfilling these obligations. The last Article, 51, is the new "self-defense" provision which is discussed in detail in connection with regional arrangements (Chapter VIII of this Report).

There was little disposition on the part of the Conference to challenge the concept that the Organization must take enforcement action and have force at its disposal to do so; nor, even more significantly, was there much evidence of a desire to limit the obligations of members. However, the proposal to concentrate in the Security Council the responsibilities for the enforcement of peace was the subject of much debate, as were some of the important details of the chapter.

Four principal questions were dealt with in the consideration at San Francisco of Chapter VIII, Section B, of the Dumbarton Oaks Proposals: (1) Should the authority for the Council's decisions be altered, either through granting the Assembly the right of participation in those decisions or through enlarging the permanent membership of the Council? (2) Should the liberty of action of the Council be restricted, either by providing definitions of aggression which would be binding upon it, or by other means? (3) How could the measures for creating and using military forces for international security be perfected? (4) Should the Military Staff Committee be enlarged or otherwise altered from the pattern set down in Dumbarton Oaks? A good deal of attention was also devoted in a few instances to clarifying the language of the provisions on which general agreement already existed, but in general the provisions of this Chapter underwent very little change at San Francisco. On the issues involved in this Chapter the interests of the United States differed little from those of the other great powers, and the unanimity of

agreement among the so-called "Big Five" was especially prominent throughout the consideration of this Chapter.

## CHALLENGES TO THE PEACE

At San Francisco there was as ready recognition as at Dumbarton Oaks of the need to grant the Organization authority to determine when a situation has become a threat to the peace and to decide when an act of aggression has occurred or a breach of the peace exists.

The Conference decided, however, that Paragraphs 1 and 2 of Chapter VIII, Section B, of the Dumbarton Oaks Proposals with reference to the making of such determinations contained some over-nice distinctions concerning the different phases of a dispute and the particular measures which might apply in each case. The old first paragraph provided that the Security Council should take measures to maintain peace and security if it should determine that the failure to settle a dispute under certain of the provisions of Chapter VIII, Section A constituted a threat to the peace. The old second paragraph gave the Security Council general authority to determine the existence of any threat to the peace, breach of the peace, or act of aggression, and to make recommendations or decide upon measures to be taken upon such an eventuality. The discussion of these provisions by the Conference made it clear that the second paragraph contained all of the authority required to enable the Security Council to make the necessary determinations, and that as a consequence it was unnecessary to provide for any separate procedure with respect to a situation arising from the failure to settle a dispute under Chapter VIII, Section A (Chapter VI of the Charter). It was decided, therefore, to eliminate the old first paragraph as redundant and to incorporate the second with slight modifications into the Charter as Article 39, reading as follows:

"The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security."

If any single provision of the Charter has more substance than the others, it is surely this one sentence, in which are concentrated the

most important powers of the Security Council. It leaves a wide latitude to the discretion of the Security Council, which decides whether a threat to the peace, breach of the peace, or act of aggression exists, and having so decided is free to choose whether to make recommendations to the disputing parties or to proceed with sanctions or to do both. While there was some sentiment for laying down more precisely the duties of the Security Council in particular circumstances, an overwhelming majority of the participating governments were of the opinion that the circumstances in which threats to the peace or aggression might occur are so varied that the provision should be left as broad and as flexible as possible. The general duties of the Security Council are clear, and reliance upon the fulfilment of those duties is based, as it must inevitably be, on the good faith of its members.

### ACTS OF AGGRESSION

One of the most significant lines upon which debate concerning the liberty of action of the Council proceeded, was that which concerned the proposed inclusion in the Charter of provisions with respect to determination of acts of aggression. Various amendments proposed on the subject, including those of Bolivia and the Philippine Commonwealth, offered a list of sharply-defined eventualities (such as invasion of, or attack on, another state, interfering with its internal affairs, etc.) in which the Council would be bound to determine by formula not only the existence of aggression but also the identity of the aggressor. These proposals also implied that in such cases the action of the Council would be automatic. The United States Delegation, believing that the acceptance of such a concept was most undesirable, played an active part in opposing the amendments. The Conference finally agreed that even the most simple and obvious cases of aggression might fall outside any of the formulae suggested, and, conversely, that a nation which according to a formula strictly interpreted could be deemed the offender in any particular instance might actually—when all circumstances were considered—be found to be the victim of intolerable provocation. Since it was admittedly impossible to provide a complete list, the Security Council might have a tendency to consider of less importance acts of aggression not specifically covered therein. The problem was especially complicated by the

progress in modern techniques of warfare and the development of novel methods of propaganda and provocation.

Finally, it was recognized that if the Council were bound to automatic action, the result might be that enforcement measures would be applied prematurely. The Technical Committee dealing with this question therefore decided to hold to the provision quoted above which gives the Council ample authority to decide what constitutes a threat to the peace, a breach of the peace, or an act of aggression, and to decide also which of the disputing parties has been mainly at fault.

### PROVISIONAL MEASURES

Related to the general question of the enforcement authority of the Security Council was the matter of provisional measures designed to prevent a deterioration of any disturbance pending the definitive recommendations or decisions of the Security Council. While such an authority was implicit in the original paragraphs which introduced the section on enforcement measures in the Dumbarton Oaks Proposals, the Sponsoring Powers decided to propose the insertion of an entirely new provision, incorporated in the Charter as Article 40. The measures envisaged in this Article are measures which the disputing parties will be asked to undertake themselves upon recommendation of the Council, and are therefore not to be regarded as preliminary sanctions.

It is anticipated that such provisional measures will in no wise delay the final recommendations or decisions of the Security Council, but that on the contrary compliance with them will greatly facilitate and expedite a final solution of the dispute. As specifically stated in Article 40, compliance with provisional measures will in no way prejudice "the rights, claims, or position of the parties concerned". The Security Council shall on the other hand "duly take account of failure to comply". It was felt that the language of the latter statement, which leaves a certain discretion to the Council, was preferable to a more positive statement binding the Council to direct all its measures against that side which had failed to comply. As in the matter of defining an aggressor, it was recognized that while failure to comply with provisional recommendations must be regarded as serious, the burden of provocation might nevertheless in some instances be overwhelmingly on the other side.

Provisional measures will be used only in appropriate cases. If they are not used or if they do not resolve a particular dispute, the Security Council will proceed to use other measures—either non-military measures under Article 41, or military measures under Article 42. It should be pointed out that the sequence of Articles 41 and 42 does not mean that the Council must in all cases resort to non-military measures in the first instance. While ordinarily this would be the case, since crises generally take a long time to develop, in a case of sudden aggression the Security Council may resort at once to military action without proceeding through any intermediate step, and the language of Article 42 has been refined to make this clear.

## THE CONCENTRATED AUTHORITY OF THE COUNCIL

In the opinion of the United States Delegation, the effectiveness of the Organization as an instrument of international peace was at stake in two groups of amendments to Chapter VIII, Section B, of the Dumbarton Oaks Proposals. One group was intended to permit the General Assembly to participate in the Security Council's decisions, and the others sought in various ways to enlarge the membership of the Security Council on a permanent basis. Both were eventually discarded in the interest of greater speed and certainty of enforcement action, but only after a vigorous discussion in which certain of the smaller nations, especially some which had experienced occupation by the enemy, gave strong support to the position of the great powers. It was emphasized that the Council will act only on behalf of the Organization as a whole, and that, in view of the requirement of unanimity of the permanent members and of the representative character especially of the elective members of the Council, any positive action by it may be counted upon to reflect the wishes of the majority of the Assembly.

Enforcement measures, in order to be effective, must above all be swift. The majority of the delegations agreed with the argument of the United States that it is impossible to conceive of a swift and effective intervention if the decision of the Council must be submitted to Assembly ratification, or if the measures applied by the Council are susceptible of revision by the Assembly. Such provisions, more-

over, would be contrary to the basic concept of the Organization, which, as has been shown, envisages a marked distinction between the functions of the two bodies.

### "NO TAXATION WITHOUT REPRESENTATION"

One significant and constructive change resulted from the debate, in the adoption of a wholly new Article, 44, which contains the substance of an amendment submitted at the Conference by the Delegation of Canada and strongly supported by the other "middle powers". It gives realization on the level of international security arrangements to the cherished axiom of American history: "No taxation without representation". Once the Security Council has determined on the employment of armed forces, it must give to each state asked to contribute contingents a voice in the decisions concerning the employment of its own forces. For the purpose of such decisions, in other words, the voting membership of the Security Council may be increased by one—but by no more than one—for each decision.

Here is the way Article 44 will work: If four states not represented on the Security Council are to be asked to furnish armed forces to cope with an emergency, they may, if they desire, send representatives to sit temporarily with the Council; but each of these four *ad hoc* representatives would participate only in the decision which concerns the use of the armed forces of his own country. No similar right is given to states when the contribution involved is only the use of facilities and assistance they have agreed to provide, and an amendment to give such a right was rejected. The Conference felt that there is a substantial difference between sending men to fight and, for example, making an airfield available.

It is particularly important to notice that the membership of the Security Council remains unchanged for all decisions leading up to and including the decisions to impose military sanctions. Thus the operation of the security machinery will not be dangerously slowed by the new provision. Moreover, the provision will not affect the use of the contingents of the great powers, which will doubtless constitute the bulk of the forces used to carry out the Council's decisions. Even the process of consulting the states that are not members of the Council should not appreciably delay the effective functioning of their contingents.

## PROVISION OF ARMED FORCES

The effort to clarify and to make more adequate the procedures for making military forces available to the Security Council involved some significant departures from the Dumbarton Oaks text as concerns the special agreements for supply of forces. Even as originally drafted in the earlier document, Paragraph 5 of Chapter VIII, Section B, was novel and far-reaching. The League of Nations Covenant, the only comparable document of the past, did not contain any provision requiring member states to conclude agreements for the supply of forces to execute military sanctions. The insertion of such a provision in the Dumbarton Oaks text thus represented a long step forward.

One point in connection with these agreements which should be stressed is that, as is brought out in the report of the Rapporteur, no Member of the United Nations can be called upon to supply for the use of the Security Council forces which are not provided for in the agreements.

## AGREEMENTS WITH SECURITY COUNCIL

The Conference made useful improvements over the provisions of the Dumbarton Oaks Proposals with respect to these agreements and clarified and strengthened the powers of the Security Council in regard to them. The delegations of the Sponsoring Powers and France, cooperating with that of Australia, presented, and the Conference adopted, a consolidated amendment embodying the substance of several proposals.

In the first place, under a clause containing the substance of a French proposal, the facilities which are to be made available under the special agreements will include rights of passage. Such a provision was implied in the original text, but it was deemed preferable that the obligation be stated clearly. In specifically naming rights of passage, the Conference nevertheless made it clear that this phrase should not be construed restrictively.

Under another French proposal, as modified in the new amendment, the special agreements will provide for the degree of readiness of the armed forces committed and their general location, as well as for the numbers and types of forces and the nature of the facilities

and assistance, as specified in the original text. These changes cannot but sharpen considerably the edge of the sword which will ultimately be placed in the hands of the Security Council.

Another significant change from the Dumbarton Oaks text provides that the Security Council shall take the lead in negotiating the special agreements which, instead of being concluded among the member states, are to be concluded between the states on one side—either individually or in groups—and the Security Council itself on the other. Originally suggested at the Conference by the Delegations of Australia and New Zealand, the new provision will not only expedite the conclusion of the special agreements but will also make for a more rational arrangement in that the party which will have to call for the forces and direct their use, namely the Security Council, will be the same party to which are owed the obligations to provide them.

This change is also of considerable legal significance in that the member states, by the very act of signing the Charter, collectively recognize the legal capacity of the Security Council to conclude agreements with them. The novelty of this concept, while noteworthy, is greatly over-shadowed by its ready and unanimous acceptance at the Conference, where many of the representatives were experts in international law. It must be observed, however, that this departure is not wholly new. The League of Nations was on various occasions party to agreements with sovereign states; and even the United States, which was not a member of the League, concluded certain agreements with the Council of the League.

The special agreements provide for a structure which still remains to be erected. Article 43 does not enable the Security Council to exercise its functions of enforcement. It only obliges the Member states to negotiate and conclude with the Security Council *as soon as possible* the special agreements which will provide to the Organization the bones and muscle of authority. Negotiation of the agreements cannot be begun, of course, until the Security Council is in existence and therefore considerable time may elapse before the conclusion of these agreements and the availability of forces to the Council. This fact should be clearly borne in mind in any appraisal of the potentialities of the United Nations in dealing with situations during the period pending the coming into effect of these agreements.

It has an important bearing upon the question of transitional security arrangements discussed in Chapter XVII, and of mutual assistance treaties discussed in Chapter VIII.

### AIR FORCE CONTINGENTS

Special provision is made in Article 45 for national air-force contingents which the member states are to hold *immediately available* to the Organization for military measures of special urgency. Certain delegations at first questioned the wisdom of giving a unique place to air forces and observed that a militarily realistic conception demands the provision from the outset of all the branches of armed forces. However, they expressed themselves as wholly satisfied with the explanation that this was already provided for in substance by virtue of the addition of the requirement in Article 43 that the special agreements should provide for the degree of readiness in which contingents of forces should be held. Although this change might make Article 45 less necessary than before, the majority of the countries felt that the great and immediate striking power of air forces over long distances, warranted a special provision with respect to that branch of military power and particular emphasis on the immediate availability of air force contingents.

### MILITARY STAFF COMMITTEE

Another significant feature of Chapter VII is the creation of the Military Staff Committee, a wholly new type of agency. This Committee will consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives, and will be a permanent international body. It will advise and assist the Security Council in all problems which are military in nature or which have military implications. Its responsibilities under the Security Council will include the strategic direction of any armed forces placed at the disposal of the Council. In addition, it will advise the Council as to the special agreements envisaged in Article 43, and prepare plans for the application of the armed forces made available through those agreements.

This innovation is in reality but one of the many examples of the manner in which the experience of the present war has been

drawn upon in drafting the Charter. What has been done was simply to take the idea of the Combined Chiefs of Staff which played such a significant role in Anglo-American strategic planning and direction and adjust it to the needs of the new Organization.

The Military Staff Committee is given power in Article 47 to establish regional sub-committees. This is a change from the Dumbarton Oaks Proposals which (in Chapter VI, Section D, Paragraph 2) gave this power directly to the Security Council. Before setting up these subcommittees, the Military Staff Committee, acting under the authorization of the Security Council, is to consult with the appropriate regional agencies, but the Staff Committee will have the final decision. As finally included in the Charter, this clause combines a Sponsoring Power amendment with an addition introduced by Peru during the discussion of more radical suggestions of Uruguay and Bolivia. In keeping with the provision in Article 53 for the use of regional agencies, where appropriate, in enforcement action, this amendment constitutes a recognition of the important role of regional agencies in the Organization.

There was originally some sentiment for the permanent or *ad hoc* enlargement of the Military Staff Committee itself, through the inclusion of representatives of member states other than the five permanent members of the Security Council. The Conference, however, decided by a large majority that concern for efficiency, for permanency of membership, and for apportioning military responsibility according to military capacity, dictated leaving the membership unchanged.

## OBLIGATIONS AND RIGHTS OF MEMBERS

While security and world peace are of universal concern, the realities of geography must also be considered. This applies especially, though not solely, to the lesser powers, whose military effectiveness in areas remote from their home territories is likely to be slight. One must recognize also a distinction between the world-wide responsibilities of the great powers and the more restricted scope of activities of the lesser states. These considerations are accounted for in Article 48, Paragraph 1, which provides in substance that the Security Council may determine in each instance which states or groups of states are to carry out its decisions. In addition, this Article

provides that the member states shall fulfill their undertakings not only directly but also through their action in other international agencies of which they are members. Under this provision, for example, in the event of economic sanctions against a particular aggressor, the Members would use their influence to prevent the International Monetary Fund from giving financial or other assistance to that aggressor.

Article 49, which has been slightly altered in language, but not in substance, from the Dumbarton Oaks text, imposes another obligation upon Members, by requiring them to help each other in carrying out the measures decided upon by the Security Council.

These obligations are specific applications of the general duty of Members under Article 2, Paragraph 5, which requires all Members to give the Organization "every assistance in any action it takes in accordance with the present Charter".

It is obvious that a nation whose economic well-being depends heavily on trade with a particular state will suffer unduly from the imposition of a blockade or of other economic sanctions against the latter state. Similarly, a nation which grants rights of passage to forces which are executing the decisions of the Security Council may, especially if the state which is the target of the sanctions is a neighbor, suffer a well-nigh complete disruption of its economic life. Such problems are especially likely to arise in the case of the smaller states, and it is towards relieving as much as possible such disproportionate burdens that Article 50 is directed. These two Articles provide for a world-wide adjustment, by equitable distribution of the economic burden of sanctions, to the accidents of geography and of international trade. It was specifically the understanding of the Conference that the obligation imposed by those paragraphs extends to financial problems. It is also noteworthy that under Article 50 the privilege of consulting the Security Council in regard to the solution of special problems arising from the imposition of sanctions is extended to states which are not Members of the Organization. The Charter, through Article 2, Paragraph 6, and Article 103 also provides protection for the Members against non-members in case the fulfilment of obligations under Articles 48, 49, and 50 should involve difficulties with non-member states.

## CONCLUSION

Taken together, the provisions of Chapter VII constitute a noteworthy step forward in international organization. They concentrate authority in one body and give that body the power and the means to assert its authority. On the other hand, they furnish safeguards for nations which are asked to undertake heavy responsibilities. The total effect is to strike a proper balance between what is essential if the organization is to be effective in maintaining peace and security and the realities which must be accepted in creating an association of sovereign states rather than a super-state.

## **REGIONAL ARRANGEMENTS (Chapter VIII)**

### **INTRODUCTION**

The articles of the Charter of the United Nations which deal with regional arrangements are intended to mesh into the system of international security established on a universal basis such existing or future regional instrumentalities as might serve to further its objectives without detracting from its authority and effectiveness.

The United States and the other American Republics have had a special interest in the maintenance of the inter-American system, which has demonstrated its usefulness in preserving the peace and security of the Western Hemisphere and in advancing its welfare. This system had been in process of development for more than half a century and had only recently, in March, 1945 attained full maturity in the Act of Chapultepec. Moreover, various countries in Europe, especially since 1942, have made alliances in the interest of their own peace and security, and seven Arabic-speaking countries, on March 22, 1945, formed the League of Arab States.

All of these countries, and others represented at the Conference, individually and collectively, were deeply concerned with the problem of their security in a world which, for the second time within a generation, had been devastated by a great world struggle. These nations could not be expected to abandon instruments of regional cooperation which they considered essential to their security, but they all recognized the necessity of laying the foundations of an organization which would give hope of maintaining peace on a universal basis. Hence the problem arose of integrating regional arrangements and agencies with the establishment of a universal security organization. Articles 51 to 54 of the Charter are designed to effect this integration.

### **THE DUMBARTON OAKS PROPOSALS**

The Dumbarton Oaks conversations faced squarely the issue of the relationship between regional arrangements and a general interna-

tional organization. It was held imperative to give the proposed world organization genuine and overall authority to deal with the problems of war and peace. At the same time the value of regional arrangements was clearly recognized. The principle was accepted that regional instrumentalities which promote peace and security, and which stimulate confidence in the success of collective security arrangements, will, if properly integrated within the general framework, serve to strengthen the organization itself and further its purposes. This was the genesis of Chapter VIII, Section C, on Regional Arrangements, of the Dumbarton Oaks Proposals.

This section stipulated that nothing in the Charter should preclude the existence of regional arrangements or agencies, provided they were "consistent with the purposes and principles of the Organization". It was recognized that regional organizations might play a constructive role in the settlement of "local disputes . . . either on the initiative of the states concerned or by reference from the Security Council".

Similarly the Security Council could utilize regional arrangements for enforcement action, provided that such enforcement action should be undertaken only when authorized by the Council and that the latter should be kept fully informed of all action taken or contemplated under regional arrangements or by regional agencies. It was recognized that the Council must have a general authority over regional security machinery in order to prevent such arrangements from developing independently and thus possibly pursuing different ends. In other words, this provision was intended to coordinate the functions of a regional grouping with those of a general organization, and at the same time establish the final authority of the latter.

## AMENDMENTS APPROVED AT SAN FRANCISCO

The United Nations Conference on International Organization made several changes in the foregoing provisions on regional arrangements, without altering the basic principle of universality accepted by the Dumbarton Oaks Conference.

### Amendments Proposed

The proposals submitted at San Francisco for amending this section fell largely under three categories.

There were some proposals from the Latin American delegations which raised the problem of the extent of autonomy in respect of pacific settlement of disputes and enforcement action under regional arrangements, as well as with respect to regional arrangements in the social, economic, and cultural spheres. The similar interest of the members of the League of Arab States in this latter aspect of regionalism was manifested in an Egyptian proposal for a separate chapter to deal with arrangements of a permanent character contemplating international cooperation on a comprehensive basis among states of a region. Likewise Australia submitted a proposal whereby the parties to regional arrangements would be authorized to take measures for their peace and security if the Security Council failed to act and did not authorize regional enforcement action. A similar Belgian proposal recognized the right of automatic action under regional arrangements in case of urgent necessity, but provided for the authority of the Security Council to suspend the execution of such action.

Another series of amendments proposed to approach the regional problem through modification of the voting procedure in the Security Council. Suggestions of this nature which were presented by Australia, Belgium and Venezuela proposed to qualify the so-called "veto" power of the permanent members in the case of regional enforcement action.

A third group of amendments was concerned with the specific problem of pacts of mutual assistance like the Anglo-Soviet treaty of May 26, 1942 and similar treaties, and of their integration within the framework of the General Organization. Although these mutual assistance pacts fell within the general denomination of "Regional Arrangements", it was recognized that they were concerned primarily with the problem of military security. Amendments with respect to this important matter were proposed by the Soviet Union, France, Belgium, Czechoslovakia, and Turkey. Essentially two issues were involved in this problem: (1) the permanent inherent right of self-defense, individual or collective, against a possible aggressor; and (2) the provisional or temporary right of the parties to such pacts to take preventive action against a possible aggression on the part of states which had fought against the United Nations during the present war.

## **Amendments Approved**

In order to meet the legitimate desires which these amendments represented, the Conference in San Francisco adopted three principal modifications of the Dumbarton Oaks Proposals:

- (1) an amendment to Chapter VIII, Section A, Paragraph 3 (Article 33 of the Charter) adding regional agencies or arrangements to the processes of pacific settlement, and a closely related amendment to Chapter VIII, Section C, Paragraph 1 (Article 52 of the Charter) providing that parties to regional arrangements should attempt to solve local disputes through regional arrangements;
- (2) an amendment to Chapter VIII, Section C, Paragraph 2 (Article 53 of the Charter) stipulating the right to take preventive action under regional arrangements against renewal of aggressive policy on the part of enemy states; and
- (3) an amendment to Chapter VIII, Section B, adding a new Paragraph 12 (Article 51 of the Charter) recognizing the right of individual and collective self-defense against armed attack.

The foregoing modifications were all submitted to the Conference by the four Sponsoring Powers and were accepted by the other delegations as constituting an adequate amalgamation and reconciliation of the numerous amendments dealing with regional arrangements. With the adoption of these alterations in the Dumbarton Oaks Proposals, the role of the regional arrangement in the maintenance of peace and security within the framework of the world organization was clarified

## **Regional Arrangements and Pacific Settlement**

With respect to procedures for pacific settlement, the phrase "resort to regional agencies and arrangements" was introduced in Paragraph 3 of Chapter VIII, Section A (Article 33 of the Charter) in order expressly to recognize that an appeal in the first instance to collective procedures of pacific settlement which are available to the members of a regional community is an appropriate method of peaceful solution, along with the standard means mentioned in the original text.

The modification introduced in Chapter VIII, Section C, Paragraph 1 (Article 52 of the Charter) constituted the addition of a sentence

providing that the member states entering into regional arrangements or constituting regional agencies "shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council". It is also provided that the Security Council shall encourage the development of pacific settlement of local disputes through regional arrangements or by regional agencies. To insure the paramount authority of the Council and its right to concern itself if necessary with disputes of this character, an additional sentence was added to this article in which it is stipulated that the foregoing provision "in no way impairs the application of Articles 34 and 35". The first of these empowers the Security Council to investigate any dispute, or any situation which may lead to international friction, and the second provides that any state may bring to the attention of the General Assembly or the Security Council any dispute or any situation likely to lead to international friction.

These modifications make it clear that regional means of pacific settlement such as those provided for in the inter-American system, including the procedure of collective consultation, shall be given the fullest possible opportunity to attempt a solution of local disputes and that the Security Council is to encourage and facilitate such an attempt. It is definitely recognized nevertheless that there shall be no impairment of the authority of the Security Council to determine, at its own instance or at the request of a member or non-member state, whether the dispute endangers international peace, or to proceed to take other measures should local remedies fail to settle the dispute.

### **Regional Arrangements and Mutual Assistance Pacts**

The problem of integrating the special mutual assistance treaties within the framework of the Charter was one of particular significance. In order to deal with proposed amendments relating to such treaties, which were designed to prevent a recurrence of the policy of aggression by the present enemy states, the four Sponsoring Powers and France introduced, and the Conference approved, an amendment of, Chapter VIII, Section C, Paragraph 2 of the Dumbarton Oaks Proposals, which became Article 53 of the Charter. In this

provision an exception is made to the necessity for prior authorization of the Security Council for regional enforcement action in the case of measures against these enemy states pursuant to Article 107 of the Charter, or in regional arrangements directed against a renewal of aggressive policy by the same states, until the international Organization, on request of the governments concerned, is charged with preventing further aggression by such states. Article 107, which is dealt with in discussing "Transitional Security Arrangements" in Chapter XVII of this Report, sets forth the special and temporary responsibilities of the victorious powers for policing the enemy states.

The amendment has the same objective as Article 107, since it seeks to insure that there shall be no relaxation in the measures of control against the possibility of a renewal of aggression by the enemy states in this war, pending the time when the Security Council of the United Nations is able effectively to assume that responsibility. Neighbors of Germany, especially, stressed that the future peace and security of the world must rest on the permanent destruction of German and Japanese militarism, and emphasized that there must be no lapse of control over the aggressors lest the tragic experience of the inter-war period be repeated in the future.

As a result of the provisions of Article 107, the Security Council will not be charged with the responsibility for the prevention of aggression by enemy states until the governments having responsibility for such action as a result of the present war decide to have this responsibility transferred to the Organization and the Organization decides to accept it. The United States Delegation agreed to the exemption of measures taken under these mutual assistance treaties from the general rule that no enforcement action should be taken under regional arrangements or by regional agencies without the authority of the Security Council, because this was in accord with United States policy toward the enemy states.

The phrase "governments concerned", as used in Article 53, includes both the parties to regional arrangements directed against renewal of aggressive policy on the part of the enemy states, and the governments, including the United States, which are responsible for such action as may be taken under Article 107 in relation to the same states.

## **Regional Arrangements and Defense**

The amendment which exempted the application of enforcement measures taken under the special mutual assistance treaties from the control of the Security Council did not meet the issue presented by other proposed amendments designed to give greater autonomy to regional arrangements in enforcement action. This matter was one of direct concern to the United States and to the other American Republics. The problem was met by the adoption of an additional amendment of special significance to the inter-American system.

This amendment, which became Article 51 of the Charter, stipulates that the member governments have "the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security". Such measures, however, are to be reported immediately to the Security Council, and do not "in any way affect the authority and responsibility of the Security Council . . . to take at any time such action as it deems necessary in order to maintain or restore international peace and security".

In thus recognizing the paramount authority of the world organization in enforcement action as well as the inherent right of self-defense against armed attack pending the time when the Security Council undertakes such action, this Article, with the other relevant provisions of the Charter, makes possible a useful and effective integration of regional systems of cooperation with the world system of international security.

This applies with particular significance to the long-established inter-American system. Under the Monroe Doctrine the United States has long recognized that an effort by non-American powers to extend their colonial or political systems into the American Republics would be a threat to our own peace and security. The Declaration of Lima in 1938 recognized, and the Act of Habana in 1940 emphasized, that all the American Republics share our concern in the maintenance of this principle. That hemispheric policy of self-defense against non-American powers was strengthened and extended by the Act of Chapultepec to a policy of collective defense by all the American Republics against aggression by any state, either from within or outside of the Western Hemisphere. Under the Act of Chapultepec the

American Republics declared that an attack upon one of them is an attack upon all. Under Part I of the Act this declaration of mutual assistance would be effective for the duration of the Second World War only.

The American Republics at San Francisco were particularly solicitous that the Charter of the world organization should not prevent this concept of collective self-defense from being integrated by permanent treaty into the American hemispheric system as contemplated by Part II of the Act of Chapultepec. Article 51 of the Charter, above referred to, makes it clear that this can be done consistently with the Charter. Also the Secretary of State announced that it was, in fact, the intention of the United States Government to fulfill the hopes expressed in Part II of the Act. By public statement issued at San Francisco, he stated the intention of this Government to call a conference before the close of the year, to conclude, consistent with the provisions of the Charter, the permanent hemispheric treaty contemplated by Part II of the Act of Chapultepec.

In conclusion, it may be said that from the point of view of the national interest of the United States, the provisions on regional arrangements adopted at San Francisco insure the preservation of the inter-American system based on the Good Neighbor Policy as an integral and valuable element of an effective collective security system on a world-wide basis. It is believed that this has been accomplished without establishing a precedent which might engender rivalry between regional groups at the expense of world security.

**INTERNATIONAL ECONOMIC AND SOCIAL  
COOPERATION  
ECONOMIC AND SOCIAL COUNCIL  
(Chapters IX and X)**

**INTRODUCTION**

The battle of peace has to be fought on two fronts. The first is the security front where victory spells freedom from fear. The second is the economic and social front where victory means freedom from want. Only victory on both fronts can assure the world of an enduring peace.

In the next twenty-five years the development of the economic and social foundations of peace will be of paramount importance. If the United Nations cooperate effectively toward an expanding world economy, better living conditions for all men and women, and closer understanding among peoples, they will have gone far toward eliminating in advance the causes of another world war a generation hence. If they fail, there will be instead widespread depressions and economic warfare which would fatally undermine the world organization. No provisions that can be written into the Charter will enable the Security Council to make the world secure from war if men and women have no security in their homes and in their jobs.

Effective economic and social cooperation is, furthermore, an urgent necessity for all nations which brooks no delay. The war is over in Europe, but the terrible destruction and the suffering, the wholesale uprooting of peoples and its social consequences, the disruption of production and trade resulting from the war—all these have still to be dealt with. In the Far East, the United Nations face the same task as rapidly as they drive the Japanese out of the occupied lands, and to final defeat.

The stake of the United States in the prompt and successful performance of this task is at least as great as that of any other nation. We cannot provide jobs for the millions now in our armed forces and maintain prosperity for ourselves unless the economy of the rest of the world is restored to health. Continuing poverty and despair

abroad can only lead to mass unemployment in our own country. From the long-range point of view we cannot hope to maintain our comparative wealth unless there is effective international cooperation in the development of trade and higher standards of living throughout the world.

It is equally evident that the promotion of respect for human rights and freedoms, and closer cooperation in fighting ignorance and disease and in the exchange among nations of scientific knowledge and of information about each other are as necessary to peace as an expanding world economy.

Modern communications have brought the peoples of the world into closer contact with each other, and have made mutual understanding not merely desirable but indispensable to the maintenance of good neighborliness. Unless the peoples of the world learn to comprehend that, in spite of diversities in attitudes and outlook, they are bound together by common interests and common aspirations, the peace of the world will rest on uncertain foundations.

Similarly the struggle against disease and pestilence is a matter of international concern. In the age of aviation disease travels faster than ever, and becomes a threat to the highly developed countries with their vast centers of communication even more than to remote and undeveloped regions of the world. Nor is it enough to fight dread epidemics. Preventive medicine, mental hygiene, improved standards of nutrition and better health in general are essential to the well-being of nations. They mean higher productivity, enlarged markets, and a general well-being which makes for peace.

Finally, no sure foundation of lasting peace and security can be laid which does not rest on the voluntary association of free peoples. Only so far as the rights and dignity of all men are respected and protected, only so far as men have free access to information, assurance of free speech and free assembly, freedom from discrimination on grounds of race, sex, language, or religion and other fundamental rights and freedoms, will men insist upon the right to live at peace, to compose such differences as they may have by peaceful methods, and to be guided by reason and goodwill rather than driven by prejudice and resentment. The United States, as a nation which takes pride in its free institutions, is particularly interested in the promo-

tion, through international means, of human rights throughout the world.

To foster cooperation in all these fields is a vast undertaking. It was approached boldly and in a spirit of realism both at Dumbarton Oaks and at San Francisco.

It was evident to the architects of the Dumbarton Oaks Proposals that to neglect the economic and social aspects of international relations in the way in which they were frequently neglected during the period between the two wars, was to court disaster. Thus their Proposals provided for the setting up, under the authority of the General Assembly, of an Economic and Social Council designed to become an effective instrument in the promotion of international economic and social cooperation.

Unlike the Security Council, the Economic and Social Council was not to have any coercive powers. The Proposals recognized that in social and economic matters an international organization could aid in the solution of economic and social problems but could not interfere with the functions and powers of sovereign states. It could not command performance by individual member nations; it should not reach into the domestic affairs of Members. Its tools and procedures are those of study, discussion, report, and recommendation. These are the voluntary means of a free and voluntary association of nations.

The Economic and Social Council, according to the Dumbarton Oaks Proposals, differs from the Security Council in another important respect. Arrangements for international cooperation in security matters are largely centered in the Security Council. By contrast, international economic and social issues cannot be dealt with by any one agency. Effective cooperation in fields so diverse and so fundamental to nations and individuals as the movement of trade, monetary stability, public health, freedom of the press, or aviation, requires the creation of specified agencies, some of which are already functioning while others are being planned.

To coordinate the policies and activities of these specialized agencies and to avoid duplication of effort is to be one of the major tasks of the Organization and, specifically, of the Economic and Social Council as defined at Dumbarton Oaks.

The San Francisco Conference added new provisions to the original text, and earlier provisions were expanded. All these changes, while

upholding the principles laid down at Dumbarton Oaks, were designed to strengthen the position of the Economic and Social Council within the general international organization and to enable it to achieve its vital tasks. Objectives were more clearly defined and functions more clearly stated. And, significantly, it was unanimously decided that the Economic and Social Council should become one of the principal organs in the new Organization, one of the cornerstones of the peace of tomorrow.

The Committee of the Conference dealing with economic and social arrangements and its Drafting Subcommittee held altogether forty meetings. All nations represented in the Conference, both large and small, took an active part in the work of these committees. They were firm in their determination to get at the very roots of international conflict and to prepare the way for active and constructive international cooperation in the creation of a peaceful world. Chapters IX and X of the Charter reflect their achievement. They combine the wisdom of experience with the wisdom of hope. The first of these two chapters contains the general provisions of the Charter regarding international economic and social cooperation, while Chapter X deals with the Economic and Social Council.

## PURPOSE AND UNDERTAKINGS

The Dumbarton Oaks language had confined its statement of objectives in the field of international economic and social cooperation to the following:

"With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, the Organization should facilitate solutions of international economic, social and other humanitarian problems and promote respect for human rights and fundamental freedoms".

Chapter I, Paragraph 3 contained an even briefer statement in listing among the purposes of the Organization the achievement of "international cooperation in the solution of international economic, social and other humanitarian problems".

Out of weeks of purposeful and often spirited discussion in committee, by delegations, and by consultants, there emerged at San Francisco a new statement of the economic and social objectives of the Organization, both broader and more incisive than the original

text. It is well to reproduce it in full in this report, for it represents one of the high achievements of the Conference:

"With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- "a. higher standards of living, full employment, and conditions of economic and social progress and development;
- "b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
- "c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." (Article 55).

In line with this broader statement of objectives, the statement of purposes in Chapter I (Article 1) was also strengthened as described in the commentary on that chapter.

In the course of the deliberations leading up to the adoption of these texts several issues were brought out which deserve special mention.

A number of delegations felt that to speak of solutions of "economic, social and other humanitarian problems" was not sufficiently descriptive of the range of activities contemplated for the Economic and Social Council. In particular, there was strong support for specific enumeration of cultural, health and educational matters.

From the outset, the United States Delegation found itself in agreement with the addition of "cultural" and "health" to the enumeration, but believed that "educational" was adequately comprehended within "cultural". In addition, it felt that whereas the members individually and in cooperation could work toward *solutions* of international economic and social problems, the same language was not equally applicable to the cultural and educational fields. In those fields it was not the solutions of international problems that was sought, but the advancement of international *cooperation* as a means of promoting mutual understanding and good will among the peoples of the world. Stated in that way, it would also remove any basis for misapprehension that the Organization was in any way

designed to interfere in the domestic educational systems of any of the member nations. The compromise text as stated above was approved unanimously.

The inclusion of the passage referring to the promotion of "higher standards of living, full employment, and conditions of economic and social progress" gave rise to prolonged discussion.

The United States Delegation preferred the expression "high and stable levels of employment" rather than "full employment" because it believed that the latter term, while in wide use, was less precise and less meaningful than "high and stable levels". It did not, however, insist upon this point when it became apparent that there was strong preference for the term "full employment" among most of the other delegations.

One of the most striking differences between the original Dumbarton Oaks Proposals and the final text as adopted lies in the greater emphasis on human rights. At the outset of the Conference the Sponsoring Powers proposed that the objective of promotion of respect for human rights and fundamental freedoms as set forth in the Dumbarton Oaks text should be expanded into promotion of respect for human rights and for fundamental freedoms *for all without distinction as to race, sex, language, or religion*. The Conference further strengthened this language to read "*universal respect for, and observance of, human rights. . . .*"

In no part of the deliberations of the Conference was greater interest displayed by the group of American consultants, representing forty-two leading American organizations and groups concerned with American foreign relations, than in the opportunity afforded to extend the enjoyment of human rights and basic freedoms to all peoples. They warmly endorsed the additions to the statement of objectives. Beyond this they urged that the Charter itself should provide for adequate machinery to further these objectives. A direct outgrowth of discussions between the United States Delegation and the consultants was the proposal of the United States Delegation, in which it was joined by the other Sponsoring Powers, that the Charter (Article 68) be amended to provide for a commission on human rights of which more will be said later.

## The Nations Pledge Themselves

The statement of purposes is followed by Article 56, which reads as follows:

"All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55."

No corresponding provision occurs in the Dumbarton Oaks text. Early in the Conference the Delegation of Australia introduced a lengthy amendment which would have pledged all members of the Organization "to take action both national and international for the purpose of securing for all peoples, including their own, improved labor standards, economic advancement, social security and employment for all who seek it", and to report annually upon steps taken in the fulfillment of the pledge.

These are objectives which have the full support of the Government and the people of the United States. The United States Government has repeatedly demonstrated its desire for international cooperation toward the achievement of steadily rising levels of economic activity, free from disruptive fluctuations, throughout the world. Thus, the United States Delegation deemed it perfectly appropriate for the member states to pledge themselves to cooperate with the organization for the achievement of these purposes.

On the other hand, the view was advanced that the further element in the Australian proposal calling for national action separate from the international organization went beyond the proper scope of the charter of an international organization and possibly even infringed on the domestic jurisdiction of member states in committing them to a particular philosophy of the relationship between the government and the individual.

The pledge as finally adopted was worded to eliminate such possible interpretation. It pledges the various countries to cooperate with the organization by joint and separate action in the achievement of the economic and social objectives of the organization without infringing upon their right to order their national affairs according to their own best ability, in their own way, and in accordance with their own political and economic institutions and processes.

To remove all possible doubt on this score the following statement was unanimously approved and included in the record of the Confer-

ence (Report of the Rapporteur of Committee 3 of Commission II):

"The members of Committee 3 of Commission II are in full agreement that nothing contained in Chapter IX can be construed as giving authority to the Organization to intervene in the domestic affairs of member states".

It was no simple matter to hammer out these issues and to reach complete agreement among the fifty participating nations. The final results, however, justify the effort. The Charter opens the way for international cooperation in the economic, social, and related fields on a scale unknown in the past. And it safeguards at the same time the right of nations to live their own lives free from unwarranted interference.

### FUNCTIONS AND POWERS

In keeping with the broader scope and the increased status of the Economic and Social Council the original powers and functions of the Council as authorized at Dumbarton Oaks were substantially enlarged and amended.

Among the added functions which have been entrusted to the Economic and Social Council are:

1. To make and initiate studies and reports with respect to international economic, social, cultural, educational, health and other related matters;
2. To address recommendations not only to the General Assembly, but to the member nations of the Organization, and to specialized agencies;
3. To prepare draft conventions, on matters within the field of its work, for submission to the General Assembly;
4. To call, in accordance with rules prescribed by the Organization, international conferences on matters falling within the scope of the functions of the Council;
5. To obtain reports from specialized agencies and from Members of the Organization on steps taken to give effect to the Council's own recommendations and to those of the General Assembly relevant to the purposes of the Economic and Social Council, and to communicate its observations on such reports to the General Assembly;
6. To perform services at the request of Members of the Organization and of specialized agencies, subject to the approval of the General Assembly;

7. To furnish information directly to the Security Council (rather than, as in the Dumbarton Oaks text, merely to enable the Secretary-General to provide information to the Security Council).

None of these added functions is in any way inconsistent with the statement of functions embodied in the Dumbarton Oaks text and indeed it might be argued that most of them could have been implicitly read into the more general language of that text. Nevertheless, the total effect of the changes has been to make clear that in the minds of the delegations at San Francisco, the Economic and Social Council was such an important agency of international cooperation that the functions and powers of the Council should be clearly stated and not left to inference.

## COMPOSITION AND VOTING

Article 61 states that the Economic and Social Council shall consist of 18 Members of the Organization to be elected by the General Assembly for periods of three years with six members retiring each year. They are to be eligible for reelection at any time. Each member shall have one representative who shall have one vote. Decisions of the Economic and Social Council shall be taken by simple majority of those present and voting.

The essence of this article is that both in its composition and the mode of its operation the Council is to be thoroughly democratic in character. No difference is being made between large and small countries, all votes are to be equal and all issues are to be decided by a simple majority vote.

It is theoretically possible that at some time none of the large powers might be represented on the Council. Such a situation will not be without appeal to those who think in terms of abstract equality. From a practical point of view, however, it would tend to bear adversely upon the effectiveness of the Economic and Social Council. For this reason a number of amendments were submitted to the Conference, designed to give permanent representation to the great powers or to make membership dependent on economic importance.

In the same spirit of realism which was characteristic of the work of the Conference, it was generally recognized that for the Council to be a success it was essential that the "important" countries should be members. At the same time it was agreed that it would be undesirable

to attempt to evaluate economic importance. It was pointed out that cultural and social importance should also be considered if "importance" were to be a determining factor. Thus it was decided that this matter should best be left to the judgment of the General Assembly. To make it clear that continuing membership of some countries is anticipated, the Charter specifically states that retiring members shall be eligible for reelection.

## COMMISSIONS OF THE ECONOMIC AND SOCIAL COUNCIL

At Dumbarton Oaks it had been suggested that the Economic and Social Council should set up "an economic commission, a social commission, and such other commissions as may be required". These commissions were to consist of experts.

By contrast, Article 68 reads as follows:

"The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions".

This final text changes the Dumbarton Oaks Proposals in two respects. First, it eliminates any reference to "experts". It was generally felt that it would be undesirable to limit the Council's field of choice. It should be free to select for membership in the commissions the best available talent, free from any restrictive specifications.

More important is the adding of a special provision requiring the Economic and Social Council to set up a commission on human rights. As already pointed out, this addition was made upon the proposal of the United States Delegation, strongly and effectively supported by its group of advisers and consultants.

The unanimous acceptance of this proposal may well prove one of the most important and significant achievements of the San Francisco Conference. It was not for the delegations to the Conference to elaborate a detailed plan of work for the commission on human rights, but the discussions preceding the submission of the amendment and its adoption by the Conference were highly suggestive of the scope of its possible activities.

Thus, the commission on human rights will have the opportunity to work out an international bill of rights which can be submitted to

member nations with a view to incorporation in their fundamental law, just as there is a Bill of Rights in the American Constitution. It can furthermore be expected to take up, in the early stages of its existence, such problems as freedom of information, of press, the radio and the screen and to prepare draft conventions on these and other subjects. These are freedoms which cannot be attained by declarations and resolutions alone. Hard work extending over many years, careful studies, and long-range planning will be necessary to attain these freedoms throughout the world and to make them secure. The commission on human rights might also undertake to promote equal rights for women, be it in the fields of politics or economics or with respect to their legal status.

These are only a few examples indicating the scope of the commission on human rights to be established by the Economic and Social Council. It is a promise from this generation to generations yet unborn that this war, fought in the cause of freedom, will not have been fought in vain.

## RELATIONS OF THE ECONOMIC AND SOCIAL COUNCIL

The list of specialized international agencies having responsibilities in particular segments of the field covered by the Council is growing rapidly. Among these specialized bodies is the International Labor Organization which has had 25 years of successful experience as an international forum on matters relating to labor standards, social security and general welfare of the world's industrial workers. Earlier United Nations conferences have proposed a Food and Agriculture Organization, an International Monetary Fund, an International Bank for Reconstruction and Development, and a Provisional International Civil Aviation Organization, and future conferences may result in the creation of international bodies in the fields of health, education and cultural cooperation, and international trade.

### Agreements with Specialized Agencies (Inter-Governmental)

The Charter (Articles 57, 63) provides that these specialized organizations shall be brought into relationship with the United Nations through special agreements to be negotiated between them

and the Economic and Social Council, subject to the approval of the General Assembly.

In order to permit the Economic and Social Council and the specialized organizations a maximum of freedom in negotiating these agreements, the Charter has little to say about their nature and content. They may well differ from case to case. It will be the function of the Organization to coordinate rather than to control. Among the means of coordination are consultation and recommendations (Articles 58 and 63, Paragraph 2). On a basis of reciprocity, representatives of the specialized organizations may participate, without vote, in the deliberations of the Economic and Social Council and its commissions (Article 70). Furthermore, the Charter gives the General Assembly the power to "examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned". (Article 17, Paragraph 3). The design is clear: the specialized agencies are to be accorded the greatest measure of freedom and initiative compatible with purposeful and coordinated action on the part of the General Assembly, the Economic and Social Council and the agencies and organizations brought into relationship with them.

In the discussion of these issues the Dumbarton Oaks text was clarified to indicate that these relationships were intended to apply to inter-governmental bodies having wide international responsibilities, although the Charter does not preclude the Economic and Social Council from making arrangements with other types of public organizations in its discretion.

### **The Place of Non-Governmental Organizations**

The close and fruitful cooperation between the United States Delegation and its consultants, representing private American organizations, pointed to the desirability of some orderly channel through which national and international organizations of a non-governmental character, having interests in international problems falling within the competence of the Economic and Social Council, could bring their views to the attention of the Organization. In an unprecedented example of cooperation and unanimity, a recommendation was addressed to the United States Delegation by consultants representing major organizations in the fields of agriculture, business, education and labor in the United States, suggesting that there be

added to the Charter a paragraph providing for consultation and cooperation between non-governmental organizations, national and international, and the Economic and Social Council.

Article 71 is the answer of the Conference to this proposal:

"The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned".

This paragraph stands on its own and needs no interpretation. It opens the way to close and orderly cooperation between the Economic and Social Council and the non-governmental organizations most vitally concerned in its work.

### DECLARATIONS FOR THE RECORD

It has been shown earlier that the Conference went some way in stating in greater detail the economic and social objectives of the Organization. Several objectives such as the promotion of activities relating to health and the furthering of cultural and educational cooperation were included in the statement of purposes (Article 55). Some delegations wanted to go further and include additional items in the enumeration of objectives. In order to focus attention upon the major issues, the majority of delegations, including that of the United States, did not favor such a course.

To solve this dilemma and to make certain that these additional objectives should not be neglected by the Economic and Social Council, a number of delegations read declarations into the record of the Conference. These declarations called attention to the urgent need of international cooperation to organize or reconstitute specialized international organizations in specific fields or to take other action toward meeting specific problems of the post-war period.

As an echo from the war-torn territories of the world came a declaration by the Greek Delegation urging that the reconstruction of countries devastated by the war should be one of the principal aims of the Organization. The United States Delegation expressed its keen awareness of the importance and urgency of international co-operation in meeting the problems of reconstruction. It is a task of

such transcending urgency that it will have to be undertaken even before the Organization comes into existence.

Another field in which the Conference anticipated that the Economic and Social Council would be concerned is the *control of the traffic in and suppression of the abuses of opium and other dangerous drugs*. In this connection the United States Delegate made the following statement:

"... Experience has shown that drug control raises issues which can best be met not by an international health, economic or social agency, but by the type of specialized agencies now functioning so successfully in this field. Everything possible should be done to safeguard the continued operation of these agencies and services.

"The United States Delegation wishes to go on record as hoping that the Organization will be entrusted with supervision over the execution of existing or future international agreements with regard to the control of the legitimate traffic in opium and other dangerous drugs, and the suppression of illicit traffic in and abuse of such drugs; that there shall be established an advisory body to advise directly the Economic and Social Council on these matters; and that the existing agencies be regarded as autonomous agencies to be related directly to the Economic and Social Council".

The Delegation of Panama proposed the establishment of an *International Office of Migration* to help assure freedom of movement, which the Delegation considered essential to the development of world resources and in the interest of an expanding economy.

With regard to a déclaration of the French Delegation recommending that there be convened within the next few months a general conference to draw up the Statute of an *International Organization on Cultural Cooperation*, the United States Delegate called attention to the fact that, though not a member of the Conference of Allied Ministers of Education in London, the United States had for more than a year been participating in its deliberations; that plans had there been laid for an international conference on an organization for educational and cultural cooperation to continue and expand the work begun after the last war; and that the Conference of Allied Ministers had recently voted to ask the Government of the United Kingdom to call such an international conference soon after the San Francisco Conference adjourned.

The Brazilian Delegation issued a declaration recommending the establishment of a *Commission of Women* to study the status and opportunity of women and, particularly, any discriminations and limitations placed upon them on account of their sex. Although the United States Delegation did not favor the establishment of such a commission composed exclusively of women, it did express its full agreement with any move designed to eliminate such discriminations and limitations as may still exist. In this connection the Delegation requested that the following statement be incorporated in the records of the Committee before which the matter was discussed:

"The position of the United States on the subject of equal opportunity for women is so well established and has been so often demonstrated in action that it does not need to be elaborated here. We expect women to play a constructive role in the development of the international community which the United Nations are today striving to organize. We are confident, also, that they will share in the benefits which will flow to the people of all lands from the cooperative efforts of their governments to solve economic and social, educational and cultural, and related human problems. Where women as a group suffer from discriminations, we believe that the commission on human rights contemplated in the draft Charter of the United Nations will be effective in helping to bring about the eventual disappearance of such disabilities. Moreover, the Delegation of the United States hopes that the excellent work of the Committee of Jurists appointed by the League of Nations to study the legal status of women throughout the world may be continued in an appropriate form, either as an advisory body to the Economic and Social Council or as a part of the commission on human rights which this Council is intended to establish".

Finally, the Delegations of Brazil and China submitted a joint declaration recommending that a general conference be convened within the next few months for the purpose of establishing an *International Health Organization* which would be brought into relationship with the Economic and Social Council. This proposal met with the universal approval of all the delegations at the Conference.

## LOOKING TO THE FUTURE

Chapters IX and X of the Charter re-affirm our faith in human progress. The Covenant of the League of Nations made no provision for any machinery for continued cooperation among its members on international economic and social matters, although Article 23 of the Covenant did contain general provisions looking toward the development of international activities. Their importance and the force of circumstances lead in time to the establishment of *ad hoc* committees and commissions and the elaboration of the work of the League of Nations Secretariat in these fields, while the activities of the International Labor Organization, in its somewhat restricted sphere, also made very material contributions. In the Charter of the United Nations, however, these issues have been recognized as parts of a single pattern of greatest importance for the maintenance of friendly relations among nations. Cooperation in these fields has been recognized as indispensable to the achievement of stability and well-being.

To achieve and strengthen such cooperation a new instrument has been forged. It promises to be an effective instrument. If properly used it may well become one of the most powerful means for the creation of an enduring peace among the nations.

# **DEPENDENT TERRITORIES AND ARRANGEMENTS FOR TRUSTEESHIP**

## **(Chapters XI-XIII)**

Three basic principles of far-reaching significance to the future of dependent territories and their peoples were embodied in the United Nations Charter at San Francisco: first, that nations responsible for the administration of dependent territories should recognize that they are accountable to the world community for the well-being and development of the peoples under their authority; second, that the political, economic, social, and educational advancement of dependent peoples is a primary concern; and, third, that dependent territories must be administered in such manner as to contribute to the maintenance of peace and security.

### **THE PROBLEM**

The problem of the dependent territories from the point of view of international concern stems from the fact that approximately a quarter of the people of the world live in territories which are not fully self-governing. The peoples of the dependent territories, not having a sufficiently advanced political status, are, at the present stage of their development, ineligible to United Nations membership. Their interests, therefore, must be represented in the world organization by those independent states which are responsible for their administration.

The objectives of the deliberations on this problem were two-fold: first, to establish a system of international trusteeship which would accommodate any of the existing mandated territories or territories detached from enemy states in this war which might, by subsequent agreements, be brought within the system, or such other territories as might be voluntarily placed under it by states responsible for their administration; and, second, to agree upon a Declaration of general standards and principles of colonial administration, including recognition of the political aspirations of the peoples and their right to self-government and free political institutions, which would apply to all dependent territories. It was considered desirable that any territories placed under the system of international trusteeship should be administered in such manner that the political, social, and eco-

nomic welfare of their inhabitants would be safeguarded and promoted and that opportunity would be given to those peoples capable of self-government or independence to achieve the status to which they aspire.

The chapters of the Charter relating to dependent territories and trusteeship create the machinery to accomplish these purposes and at the same time to make it possible fully to protect the vital security interests of the United States with respect to any territories in the Pacific and elsewhere which, by later agreement, may be included in the trusteeship system. These chapters also reflect a logical development of the traditional American attitudes and policies toward dependent peoples.

It must be emphasized that although satisfactory trusteeship machinery has been created, that in itself does not automatically place any specific territories under the trusteeship system. The Charter provides that each trusteeship agreement must be individually negotiated and agreed to by the states directly concerned with respect to a particular territory before such territory can come within the system. The particular trusteeship agreement must also be approved by the United Nations. Provision is also made, in the interest of security, for the special designation of strategic areas and for the employment of the facilities and resources of trust territories for security needs.

## BACKGROUND OF UNITED STATES POLICY

In 1918, two principal views on this subject were advanced by President Wilson, namely, that colonies should be governed in the interest of the native peoples, and that the principle of equal economic opportunity for all nations should be generally recognized. The first view—native welfare—had emerged partly as a result of the Congo scandals toward the end of the nineteenth century. The second—equal economic opportunity—had been applied to the Congo Basin by the Berlin Convention of 1885 and the Brussels Convention of 1890, and it was proposed further to extend this principle.

American policy with respect to non-self-governing peoples had also been reflected in the grant of independence to Cuba; in the Jones Act of 1916 foreshadowing the independence of the Philippines; and in the Jones Act of 1917 granting full American citizenship and a substantial measure of home rule to Puerto Rico.

At the end of the war of 1914-1918, the United States Government took the position that none of the dependent territories which were detached from Germany and Turkey should be annexed by any of the Allied and Associated Powers.

In order to avoid annexation and to give effect to the two fundamental principles of native welfare and equal economic opportunity, the mandates system was devised. This placed upon the League of Nations responsibility for supervision over the administration of the dependent territories taken from Germany and Turkey. In this way, the welfare of the dependent peoples involved in the mandates system, and the actions of the mandatory powers specifically entrusted with responsibilities of administration over them, became matters of continuing international concern.

The United States, although not a member of the League or a party to the Treaty of Versailles, safeguarded its interests in the mandated territories, resulting from its membership in the Allied and Associated Powers, by a series of treaties with the mandatory powers which protected its national rights and its international position.

Early in 1942 when the United States Government began to develop its policies with respect to a new international organization, the need for the establishment of some international mechanism to replace the mandates system of the League of Nations was clearly recognized.

The projected new international machinery to deal with these territories came to be described as a trusteeship system, a description which differentiated it from the League of Nations mandates system. It was designed to be not only a substitute for, but also a definite improvement over, the old mandates system.

The trusteeship question was also the subject of study by the other governments which later participated in the Dumbarton Oaks Conversations. It had been tentatively placed on the agenda of these Conversations, but discussion of this subject was temporarily postponed pending completion of studies of the many complex factors involved. It was understood by the governments represented at Dumbarton Oaks that the question would be taken up later and placed on the agenda of the prospective United Nations Conference.

Subsequently, an Interdepartmental Committee on Dependent Area Aspects of International Organization was set up to examine further

into the question and to draft proposals as to the kind of trusteeship system which this Government could support. This Interdepartmental Committee developed a program designed to reflect our historic attitude toward dependent peoples and to safeguard American security and economic interests in the future.

Secretary Hull, in 1943, had submitted to the President, who endorsed them, certain proposals on dependent territories. They set forth that there should be opportunity to achieve independence for those peoples who aspire to independence, and that it is the duty and purpose of those United Nations which have responsibilities for the future of colonial areas to cooperate fully with the peoples of such areas in order that they may become qualified for independent national status. The Hull proposals called on these governments to fix, at the earliest practicable moment, the dates upon which colonial peoples under their authority would be accorded the status of full independence within a system of general security. They also urged that in order effectively to carry out these purposes and functions, the United Nations should establish an international trusteeship administration.

### AGREEMENT REACHED AT YALTA

President Roosevelt was deeply interested in this question and took with him to Yalta certain recommendations on dependent territory and trusteeship matters as to proposals which might be advanced at the Crimea Conference. The subject was considered at Yalta by President Roosevelt, Prime Minister Churchill, and Marshal Stalin, and the following policy was agreed upon:

- (a) That the five governments with permanent seats in the Security Council should consult each other prior to the United Nations Conference on providing machinery in the World Charter for dealing with territorial trusteeships which would apply only to (a) existing mandates of the League of Nations; (b) territory to be detached from the enemy as a result of this war; and (c) any other territory that may voluntarily be placed under trusteeship.
- (b) That no discussions of specific territories were to take place during the preliminary consultations on trusteeships or at the United Nations Conference itself. Only machinery and prin-

ciples of trusteeship should be formulated at the Conference for inclusion in the Charter, and it was to be a matter for subsequent agreement as to which territories within the categories specified above would actually be placed under trusteeship.

Upon the basis of this new decision of general policy, the Inter-departmental Committee, after President Roosevelt's return from Yalta, reviewed its previous work and developed new proposals, within the limits of the Yalta agreement, for a Chapter on Trusteeship to be included in the proposed Charter of the new organization.

### APPROVAL OF UNITED STATES POLICY BY PRESIDENTS ROOSEVELT AND TRUMAN

These revised proposals were approved by Secretary of State Stettinius and were transmitted formally by the Secretary of State to the Secretaries of War and Navy. They were submitted to President Roosevelt by the Secretary of State on April 10, together with recommendations that they constitute the basis of the position of this Government on the subject in the discussions at San Francisco. The President replied to the Secretary of State on April 10, saying that he approved in principle the draft proposal on international trusteeship.

President Roosevelt died on April 12. On April 18 at a meeting held in the State Department at which were present the Secretary of State, the Secretaries of War and Navy, the United States Delegation to the San Francisco Conference, and the Advisers to the United States Delegation, including advisers from the Departments of War, Navy, and Interior, a memorandum was prepared for President Truman and submitted to him by the three secretaries. The memorandum was approved in the following terms:

It is not proposed at San Francisco to determine the placing of any particular territory under a trusteeship system. All that will be discussed there will be the possible machinery of such a system.

The United States Government considers that it would be entirely practicable to devise a trusteeship system which would apply only to such territories in the following categories as may, by trusteeship arrangements, be placed thereunder, namely:

(a) territories now held under mandate; (b) territories which may be detached from enemy states as a result of this war; and (c) territories voluntarily placed under the system by states responsible for their administration. It shall be a matter for subsequent agreement as to which of the specific territories within the foregoing categories shall be brought under the trusteeship system and upon what terms.

This system would provide, by agreements, for (1) the maintenance of United States military and strategic rights, (2) such control as will be necessary to assure general peace and security in the Pacific Ocean area as well as elsewhere in the world, and (3) the advancement of the social, economic, and political welfare of the inhabitants of the dependent territories.

## GUIDING PRINCIPLES FOR THE UNITED STATES DELEGATION

The policy toward dependent territories and trusteeship had now been carefully coordinated within our own Government. The United States Delegation had a set of guiding principles, the chief points of which were:

- (1) Recognition that the principles of the Atlantic Charter are applicable to all peoples of the world, including dependent peoples;
- (2) Recognition of the principle that the administration and development of dependent peoples is a proper concern of the world community and of the international organization;
- (3) That, subject to prior agreement of the states directly concerned,
  - (a) territories now administered under the mandates system may be placed under the new trusteeship system if and when such agreement is reached;
  - (b) territories which are detached from enemy states in this war may be placed and administered under the trusteeship system when such agreement is reached; and
  - (c) the trusteeship system should be available to dependent territories other than those in (a) and (b) above when the states controlling them voluntarily agree;

- (4) That the trusteeship system evolved as a part of the Charter should be so designed as fully to protect the security interests of an administering power;
- (5) That self-government or independence should be the ultimate goal for all peoples who are capable of exercising the responsibilities involved, and that administering states should be responsible for the political advancement of the peoples under their authority;
- (6) That all dependent territories should be administered in accordance with the principles that the interest of the inhabitants and their welfare and development are a primary concern;
- (7) That the welfare and development of dependent peoples and the maintenance of international peace and security are closely inter-related;
- (8) That the trust territories should be administered under the principle of equal treatment in social, economic, and commercial matters for all members of the international organization and their nationals;
- (9) That the proposed Trusteeship Chapter of the Charter in and of itself should not alter the existing rights of any states or any peoples, but that alterations of the terms of existing mandates or other territories could be made only by subsequent agreement of the states directly concerned subject to the approval of the Organization.

On May 27, 1945 in a radio broadcast to the people of the United States and the world, Secretary of State Stettinius summarized the United States position as follows:

" . . . We have stood with equal firmness for a trusteeship system that will foster progress toward higher standards of living and the realization of human rights and freedoms for dependent peoples, including the right to independence or another form of self-government, such as federation—whichever the people of the area may choose—when they are prepared and able to assume the responsibilities of national freedom as well as to enjoy its rights.

"The United States has demonstrated this long standing policy in the Philippines. It looks forward to the time when many other now dependent peoples may achieve the same goal.

"I regard the provisions which are being made in the Charter for the advancement of dependent peoples, and for the promotion of human rights and freedoms, as of the greatest importance."

## AGREEMENT BY UNITED NATIONS REACHED AT SAN FRANCISCO

As soon as the Conference convened in San Francisco, steps were taken to initiate the Five Power consultations on trusteeship which had been provided for in the Yalta agreement. The Five Powers consisted of the four Sponsoring Powers and France. The preliminary consultations among these powers were held at San Francisco simultaneously with the Committee sessions of the Conference. In the course of these consultations the Five Powers also took into consideration proposals advanced by other delegations. These consultations resulted in the formulation of a Working Paper on Trusteeship which formed, in the absence of any Dumbarton Oaks provision on the subject, the basic document for the deliberations of the Conference Technical Committee on Trusteeship.

After weeks of negotiation and discussion in the Technical Committee, the final draft was completed and approved by the Conference. The finished chapters represent the most comprehensive set of guiding principles for states administering dependent territories ever agreed upon by an international body, together with the mechanism of a practical and workable system of international trusteeship. The essential provisions of these chapters are outlined below.

### PRINCIPLES APPLYING TO ALL NON-SELF-GOVERNING TERRITORIES (Articles 73 and 74)

1. States responsible for administering dependent territories recognize that the interests of the dependent peoples are a primary concern and accept the obligation to promote their well-being by:
  - (a) ensuring, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;
  - (b) developing self-government, taking due account of their political aspirations, and assisting in the development of free

political institutions, according to the circumstances of each territory and its peoples and their varying stages of advancement;

- (c) furthering international peace and security;
  - (d) promoting measures of development, encouraging research, and cooperating with each other and with international bodies in order to achieve the social, economic, and scientific purposes set forth; and
  - (e) transmitting regularly to the Secretary-General for information purposes, statistical and other information concerning economic, social, and educational conditions, subject to security and constitutional considerations.
2. The members also agree to base their policy with respect to dependent territories on the principle of good neighborliness, taking due account of the interests and well-being of the other members of the world community in social, economic, and commercial matters.

## THE INTERNATIONAL TRUSTEESHIP SYSTEM (Articles 75-91)

- 1. The Organization shall establish a trusteeship system for such territories as may be placed under the system by future individual agreements.
- 2. The basic objectives of the system shall be:
  - (a) to further international peace and security;
  - (b) to promote the advancement of dependent peoples and their development toward self-government or independence in accordance with their particular circumstances, the wishes of the peoples, and the terms of the subsequent trusteeship agreements;
  - (c) to encourage respect for human rights and freedoms without discrimination and to recognize the interdependence of all the peoples of the world; and
  - (d) to ensure equal treatment for the United Nations and their nationals in social, economic and commercial matters and for their nationals in the administration of justice.
- 3. The system shall apply to such territories under mandate, or detached from enemy states in this war, or voluntarily placed

under it by states responsible for their administration, as may be brought under the system by means of trusteeship agreements. However, the system shall not apply to territories which have become Members of the United Nations.

4. The terms of trusteeship for any territory shall be agreed upon by the states directly concerned.
5. Nothing in the Trusteeship Chapter itself shall alter any existing rights of states or peoples or any international instruments. Any such alterations must be the subject of future trusteeship agreements. This provision shall not be interpreted as constituting grounds for delay in the consummation of such agreements.
6. The trusteeship agreement for each territory shall include the terms of administration and designate one or more states or the Organization itself as the administering authority.
7. A strategic area or areas, including all or part of any trust territory, may be designated in a trusteeship agreement.
8. All functions of the United Nations relating to such strategic areas shall be exercised by the Security Council, but the objectives of the system shall be applicable to the people of such areas. The Security Council shall utilize the assistance of the Trusteeship Council in political, economic, social, and educational matters, subject to the provisions of the trusteeship agreements and without prejudice to security considerations.
9. Each administering authority shall be required to ensure that the territory it administers plays its part in maintaining world peace and security; the authority may use volunteer forces and assistance from the territory for this purpose as well as for local defense and the maintenance of law and order.
10. The General Assembly shall exercise all the functions of the Organization for areas not designated as strategic.
11. A Trusteeship Council shall be established to assist the General Assembly. This Trusteeship Council shall consist of Members of the United Nations administering trust territories, such of the permanent members of the Security Council as are not administering trust territories, and a sufficient number of other Members to ensure an equal division in the membership of the body between those states administering and those states not administering trust

- territories. Each member of the Trusteeship Council shall designate one specially qualified representative.
12. The General Assembly, and under its authority, the Trusteeship Council, may consider reports by the administering authorities, accept and examine petitions in consultation with the administering authorities, provide for visits to the territories under its competence, and take other actions in conformity with the trusteeship agreements.
  13. The administering authorities for all non-strategic territories shall make annual reports to the General Assembly on the basis of questionnaires prepared by the Trusteeship Council.
  14. Each member of the Trusteeship Council shall have one vote and its decisions shall be made by a majority of those present and voting.
  15. The Trusteeship Council shall adopt its own rules of procedure and the method of choosing its President.
  16. The Trusteeship Council shall, when appropriate, utilize the assistance of the Economic and Social Council and the specialized agencies.

### **THE TRUSTEESHIP SYSTEM COMPARED WITH THE MANDATES SYSTEM**

The trusteeship system provided for in this Charter marks a positive advance from the mandates system in several important respects. The new system preserves intact the principle of international responsibility for certain types of dependent territories while making an entirely realistic allowance for security requirements. It faces frankly the fact, as the mandates system failed to do, that such territories in the future must be administered in a manner that will further international peace and security.

The new system is also more elastic than the old. It avoids the rigid and artificial classification of territories into A, B, and C categories, typical of the mandates system, and permits each individual territory under the system to be dealt with according to the needs and circumstances peculiar to it. It thus recognizes the very great diversity with respect to population, resources, geographical location and stage of advancement of the peoples, characteristic of the territories which are eligible for the system.

The Trusteeship Council established under the new system should prove to be a more important and effective organ than the Permanent Mandates Commission in that its membership will be composed of states, represented by official, specially qualified persons, and it will be listed as one of the principal organs of the United Nations.

In the proposed trusteeship system more emphasis is placed on the positive promotion of the welfare of the inhabitants of the trust territories than in the mandates system, whose function was primarily negative and policing. Even in this latter respect, however, the new system, unlike the old, makes specific and formal provision for the power to accept petitions and the authority to make periodic visits to trust territories coming under the competence of the General Assembly.

### SUMMARY

In brief, this chapter represents an agreement among the United Nations to set up an international trusteeship system which would make it possible for nations to continue to subscribe to the principle adopted at the end of the last war that neither the dependent territories detached from enemy states, nor the inhabitants thereof, should be objects of barter among victorious nations, or subject to exploitation by them, but should be administered in the interest of the native populations and in a manner which will provide equal economic opportunity for all nations.

All these objectives can be achieved while, at the same time, the security interests of the administering power, and of all the other United Nations, in any territories now under mandate which may be placed under the trusteeship system, or any that may be detached from the enemy and which may be placed under the system, will be fully safeguarded. There is a broad freedom of action, however, for the future policy of the United States vis-à-vis any such territories.

For the first time there has been incorporated in a multilateral agreement a broad statement of guiding principles respecting the administration of all dependent territories, together with special arrangements relating to security needs. These principles recognize the well-being and advancement of dependent people the world over as a proper concern of the community of nations.

## THE INTERNATIONAL COURT OF JUSTICE (Chapter XIV)

### INTRODUCTION

Throughout its history the United States has been a leading advocate of the judicial settlement of international disputes. Great landmarks on the road to the establishment of a really permanent international court of justice were set by the United States. We submitted important differences with other countries to tribunals composed of arbitrators or judges selected for specific cases, or groups of cases, before an international court stood ready to receive the complaints of nations. At the Hague Peace Conferences of 1899 and 1907 the United States played a prominent part in the efforts to establish such a court but no generally acceptable plan could be devised at that time.

The organized structure for the maintenance of peace which statesmen attempted to establish at the end of the war of 1914-1918 included a Permanent Court of International Justice which was brought into being by the League of Nations. A prominent American participated in finding a formula for that court. Although not a member of the League of Nations, the United States signed the Protocol of Signature of 1920 to which was attached a Statute under which the new Court functioned, and in 1923 President Harding asked the Senate for its advice and consent to ratification. The Senate in 1926 stated certain reservations and conditions under which the United States might ratify. Over the course of nine years negotiations were carried on with the states which were parties to the Statute of the Court and with the League of Nations. The Statute was revised in an attempt to meet the views of the Senate but in a final Senate vote of January 29, 1935, the necessary two-thirds majority required for approval was not secured. The fact that the United States was not a member of the League of Nations to which the Permanent Court of International Justice was related was no doubt a principal reason for the objections to our participation.

As the United States becomes a party to a Charter which places justice and international law among its foundation stones, it would

naturally accept and use an international court to apply international law and to administer justice. International law has long been criticized for its vagueness and its weakness; the Charter assigns to the General Assembly the task of promoting cooperation in its development and provides for a Court "whose function is to decide in accordance with international law". The International Court of Justice, which the Charter establishes, has an important part to play in developing international law just as the courts of England and America have helped to form the common law.

## THE DUMBARTON OAKS PROPOSALS

The Dumbarton Oaks Proposals included in Chapter VII provision for the establishment of a court as "the principal judicial organ of the Organization". It was proposed that the Statute of such a Court should be annexed to the Charter and made a part of it and that all Members of the Organization should automatically be members of the Court. The conditions on which states not Members of the Organization might become parties to the Statute of the Court were to be determined in each case by the General Assembly on the recommendation of the Security Council. The Proposals left open the question whether this Statute should actually be the existing Statute of the Permanent Court of International Justice with such changes as might be desirable, or whether there should be a new Statute. But even if the second alternative were adopted, the Proposals said that the Statute of the existing Court should be used as a basis.

## THE COMMITTEE OF JURISTS

The modification of the Statute of the existing Court, or the framing of a new Statute on the basis of the old one, was a technical task calling for the concentrated labors of a group of jurists. Accordingly, shortly after the Crimea Conference when the date for the San Francisco Conference was set, the Sponsoring Powers invited Members of the United Nations to designate representatives to meet in Washington on April 9 to prepare a draft of a Statute to be submitted to the Conference. Forty-four of the United Nations acted upon this invitation and the Committee of Jurists held sessions in Washington from the 9th through the 20th of April.

The Committee of Jurists did not undertake to decide whether the Permanent Court of International Justice should be continued or whether a new court should be established; the final answer to that question was left for San Francisco. But the Jurists did, in accordance with the provisions of the Dumbarton Oaks Proposals, take as the basis of their work the Statute of the existing Court. As a working rule it left well enough alone, making changes in the text under which the Court had operated for twenty-three years only where there was strong reason for doing so. Some changes were necessary to bring the statute into line with the framework of the new United Nations organization; some were technical improvements; and some were clearly indicated by the experience of the existing Court. Here the Committee had the advantage of the presence of three jurists who are or who have been judges of the Permanent Court of International Justice and of another who had been the Court's Deputy Registrar.

## THE CHARTER

After a Committee of the San Francisco Conference had studied and worked over the report of the Committee of Jurists, which included a Draft Statute, it was found that so far as concerns the articles to be included in the Charter on this subject, little change in the Dumbarton Oaks Proposals was necessary although the one open question as to whether there should be a new court or whether the old court should be continued had to be finally answered and certain additions had to be made. In the seventy articles of the new Statute numerous points were dealt with and to these attention will be directed later.

## OLD COURT OR NEW

What was Chapter VII of the Dumbarton Oaks Proposals becomes Chapter XIV of the Charter. The first article in the Chapter (Article 92) registers the important decision made upon the question "old court or new". In many ways this was the most difficult problem which confronted the Committee dealing with the Court. Opinions differed widely but all recognized that there were forceful arguments on both sides of the question. There was unanimous agreement that the Permanent Court of International Justice had rendered effective service and had made an excellent record. Fifty-one states had been

parties to the Court's Statute and the exercise of its jurisdiction had produced general satisfaction throughout the world. But sixteen of the states parties to the old Statute, including enemy states, were not represented at San Francisco, while a number of Members of the United Nations who were represented at the Conference were not parties to that Statute.

So far as enemy states are concerned, no difficulties were anticipated since changes in the old Statute could have been dealt with in the peace treaties, but a different solution would have been called for with respect to the neutral states. It was argued that a statute to which they were parties and the court operating under it could not be changed and taken over without their consent and yet it was obviously not feasible to include them in the deliberations of the San Francisco Conference of the United Nations. Moreover the provision in the Dumbarton Oaks Proposals (Article 93 of the Charter), which provides that states not Members of the United Nations can become parties to the Statute of the Court only on conditions laid down by the General Assembly on the recommendation of the Security Council, excludes the possibility that such states might automatically remain parties to the Statute by mere notification of acceptance of the new Statute.

The Conference Committee, having in mind the different considerations applicable to the various states which have not taken part in the war, was not disposed to depart from that provision of the Dumbarton Oaks Proposals. This conclusion was at least in some measure due to the fact that the new Court was to be an integral part of the United Nations organization, its Statute being annexed to and a part of the Charter itself, and all Members of the Organization being *ipso facto* parties to the Statute (Articles 92 and 93 of the Charter). To assure the establishment of the Court simultaneously with the establishment of the organization of which it is to be a part, it was thought that it would not be wise to risk protracted negotiations with the non-member states. On the whole, therefore, it was decided that a new Court should be established.

This decision does not "break the chain of continuity with the past", as the report of the Conference Committee puts it. Article 92 of the Charter recites the fact that the new Statute is based upon the Statute of the Permanent Court of International Justice. The number-

ing of the articles of the Statute has remained unchanged so that ready reference may be made to the accumulated literature and precedents which surround the old Statute. Just as the Permanent Court of International Justice built upon the terms of the Hague Conventions of 1899 and 1907, so the new International Court of Justice builds upon its immediate predecessor. While the Court is a "new court", it is in a very real sense only a "revised court", the successor of the old. Further to preserve the link with the past and to safeguard progress already made, Article 37 of the new Statute contains a provision which declares that where existing treaties provide for the use of the Permanent Court of International Justice, the Members of the United Nations agree that the reference shall automatically be considered applicable to the new International Court of Justice. A specific provision is also included in Article 36 of the new Statute maintaining in force with respect to the new Court, declarations made under the old Statute whereby many states accepted the compulsory jurisdiction of the old Court. This question of the compulsory jurisdiction of the Court will be examined more fully hereinafter.

The Conference Committee considered that it was clearly not possible to contemplate the existence of two World Courts, both sitting at the Hague. But for the reasons indicated, it was not thought that the Conference need deal with the method of terminating the old Court. Since a large majority of the states which are parties to the old Statute were represented at San Francisco and have agreed to establish the new Court, it is to be assumed that they will take appropriate steps to provide for the transition.

## OTHER ARTICLES OF THE CHARTER

Article 95 of the Charter contains a provision which was not in the Dumbarton Oaks Proposals but which does stem from the first Article of the Statute of the Permanent Court of International Justice. It provides that the parties to any dispute are always free to refer cases to any other tribunal upon which they may agree. This arrangement may be said to be envisaged by the wording of the Dumbarton Oaks Proposal which said that the Court should be the "principal" judicial organ, thus intimating that other judicial bodies might be utilized.

Chapter VIII, Section A, Paragraph 6, of the Dumbarton Oaks Proposals provided that the Security Council might refer questions

to the Court for advice. This proposal was inspired by the useful service of the Permanent Court of International Justice in rendering advisory opinions on the request of the Council of the League of Nations. The Assembly of the League also had the power to request such opinions, and at San Francisco like power was given to the General Assembly. The appropriate provision is now included in Chapter XIV (Article 96). Suggestions were made that other international organizations and states as well be also given the right to ask for advisory opinions but this view was not accepted. As an intermediate step, the same Article (96) provides that the right to ask advisory opinions may be exercised by other organs of the United Nations and specialized agencies brought into relationship with the United Nations, as may be authorized by the General Assembly. In these cases, however, the questions are limited to those of a legal character arising within the scope of the activities of those organs and agencies.

One other article has been inserted in Chapter XIV of the Charter which was not foreshadowed in Chapter VII of the Dumbarton Oaks Proposals. It deals with the carrying out or enforcement of the Court's judgments. The first paragraph of Article 94 is a simple statement of the obligation of each Member of the United Nations to comply with the decision in any case to which it is a party. The second paragraph of this Article links this part of the Charter's system of pacific settlement of disputes with other parts by providing that if a state fails to perform its obligations under a judgment of the Court, the other party may have recourse to the Security Council which may, if it deems it necessary, take appropriate steps to give effect to the judgment.

## THE STATUTE

The draft Statute prepared by the Committee of Jurists in Washington was transmitted to the San Francisco Conference by the Sponsoring Powers and was at once accepted by the appropriate Committee of the Conference as the basis of its work. Two major questions regarding the Statute had been left unanswered in Washington and had been referred to the Conference in the form of alternative texts between which the Committee of the Conference was asked to choose.

## Nomination and Election of Judges

The first of these questions dealt with the method of nominating the judges of the Court. The system evolved in 1920 for the Permanent Court of International Justice was designed to assure the election of competent jurists who would serve as independent judges, free from political influence. This system utilized the machinery created by the 1907 Hague Convention for the Pacific Settlement of International Disputes. Under that treaty, each State names a panel of no more than four distinguished jurists who would be available to serve as arbitrators. These panels, or national groups as they are called, make the nominations for judges of the Permanent Court of International Justice. In the Committee of Jurists in Washington a proposal was advanced that the nominations should hereafter be made directly by governments. After full discussion in San Francisco, the Committee decided to retain the old system which, while admittedly complicated, had worked well in practice (Articles 4-6 of the Statute).

Connected with this problem was that of the election of judges. The old Statute had provided that the list of nominees should be voted on separately but concurrently by the Assembly and Council of the League, no judge being declared elected unless he secured an absolute majority of the votes in each body. This system was designed to secure a balance of the interests of large and small states and it too had justified itself in practice. The Dumbarton Oaks Proposals in Chapter V, Section B, Paragraph 4, had referred to the power of the General Assembly to participate in the election of judges but had included no comparable reference in Chapter VI, which describes the powers of the Security Council. The latter omission was not based upon any decision at Dumbarton Oaks to exclude the Security Council from this function and the Committee of the Conference decided in favor of maintaining the old system of bicameral voting as had been recommended by the Committee of Jurists. It also decided to retain the provision of the old Statute calling for election by absolute majorities in each body, so that in this matter no special majority and no right of veto is involved. (Articles 8-12 of the Statute).

## Compulsory Jurisdiction

The other major question left open at Washington was whether

the jurisdiction of the Court should be optional or compulsory. The Statute of the Permanent Court of International Justice contains the so-called "optional clause" under which any state desiring to accept for the future the jurisdiction of the Court in designated types of legal disputes, might make a declaration to that effect. If no such declaration were made, the state was required to submit to the jurisdiction of the Court only when it entered into a specific agreement accepting that jurisdiction. The Committee of Jurists had been unable to reach agreement on this point and presented two alternative texts; one would have preserved the existing plan and the other would have provided that by the very fact of becoming a party to the Statute, states would be bound to accept the jurisdiction of the Court in the designated types of cases. These classes of cases are described as follows in Article 36 of the Statute:

- "a. the interpretation of a treaty;
- b. any question of international law;
- c. the existence of any fact which, if established, would constitute a breach of an international obligation;
- d. the nature or extent of the reparation to be made for the breach of an international obligation"

In the debates, attention was called to the fact that at one time or another since 1920 forty-five states had made declarations under the optional clause although some of these declarations were subject to reservations and for limited periods of time. It was thought that the progress of arrangements for the pacific settlement of international disputes had advanced to a point at which it was now possible and appropriate to provide in the Statute, as a part of the Charter, for compulsory jurisdiction.

A majority of the delegates in the Committee took this view. On the other hand it was pointed out that the inclusion of such a provision at this time might make it difficult if not impossible for some states to accept the Statute, a result which no delegate wished to precipitate. In order to reach agreement, therefore, the Committee decided to retain the present system with its optional clause.

Two steps were taken with a view to moving along the lines desired by the majority. The first step has already been noted in another connection; Article 36 now contains a provision that outstanding declarations accepting the compulsory jurisdiction of the Permanent

Court of International Justice shall be considered by the parties to the new Statute to be acceptances of the compulsory jurisdiction of the International Court of Justice. The new Court therefore will begin its life with a considerable number of acceptances of such jurisdiction. In addition, Commission IV of the Conference recommended that the other Members of the United Nations should proceed to make similar declarations as soon as possible.

## ORGANIZATION OF THE COURT

The Court is to be composed of fifteen judges as is the Permanent Court of International Justice. Article 3 of the Statute now makes explicit what was previously understood, namely, that no two of the judges may be nationals of the same state. The term of office is still to be nine years but Article 13 has been revised in order to ensure that the case will not arise in which an entire new bench would be elected at the end of each nine year period. This is accomplished by providing that of those judges chosen in the first election, the terms of five shall expire at the end of three years and of another five at the end of six years.

The seat of the Court is to remain at The Hague but Article 22 of the Statute has been amended to make clear that the Court may sit elsewhere whenever it considers it desirable. The same freedom of movement is provided for the chambers of the Court (Articles 26-9). Slight changes have been made in this respect to give the Court a little more latitude in forming such special divisions of the Court. It may from time to time form one or more chambers composed of three or more judges for dealing with particular categories of cases such, for example, as labor cases and cases relating to transit and communications. It may also at any time form a chamber for dealing with a particular case, the number of judges being here determined by the Court with the approval of the parties. In addition, the Statute retains the provision for the annual formation of a chamber of summary procedure composed of five judges, which can handle cases more expeditiously. These provisions may be utilized to meet the needs of parties whose geographical location is distant from The Hague and who may wish to have the Court or one of its chambers sit in a more convenient place. No change has been made in the system under the existing Statute which permits the appointment of *ad hoc*

national judges where one party has a judge of its nationality on the bench and the other does not.

## PARTIES BEFORE THE COURT

Neither the Committee of Jurists nor the Committee of the Conference favored admitting as parties before the court individuals or various international organizations, and Article 34 of the Statute was not modified in this respect. Additions were made to this article, however, to enable the Court to secure and utilize information from public international organizations which may be able to assist in particular cases. Moreover, if the construction of the "constituent instrument" or statute of such an organization is in question before the Court, the organization will be notified and furnished with copies of the proceedings.

## AMENDMENTS TO THE STATUTE

The Statute of the Permanent Court of International Justice contained no provision for its amendment. This lack has been supplied by the inclusion of new Articles 69 and 70. Article 69 states the rule that amendments to the Statute shall be adopted in the same way as amendments to the Charter of which it forms a part. This rule is limited, however, by the additional provision that the General Assembly on the recommendation of the Security Council may adopt provisions relative to the participation in the amending process of states which have been permitted to become parties to the Statute but which are not Members of the United Nations. Article 70 accords to the Court itself the power to propose amendments for consideration.

## CONCLUSION

Sundry other amendments have been made to the Statute of the Permanent Court of International Justice but those of chief importance have been described. It may not be inappropriate to repeat that the revision has proceeded throughout on the basis of satisfaction with the old court and high hopes for the new. If the provisions on compulsory jurisdiction did not go as far as some wished, this progress may still be recorded in declarations made at the option of the individual states. Through such optional declarations they may record their satisfaction with the institution and their confidence in its ability to play its part in the general role of the United Nations.

## THE SECRETARIAT (Chapter XV)

Every organization needs an operating staff. The recruiting and the directing of the operating staff of an international organization present special problems. The personnel must be chosen from a great number of different nations. A person of high technical qualifications may be hampered by an inability to speak one or more of the official languages of the Organization. The staff must acquire a sense of loyalty to the Organization and of devotion to its service while not becoming expatriates. The experience of the League of Nations indicates that the best international civil servant is not the person who throws off all feeling of attachment to his own country but rather one who, while maintaining his national ties, can perform his international duties for the benefit of all the member countries including his own.

The direction of such a staff is clearly a task of the first magnitude. It calls for a high degree of administrative skill, of tact, courage, and of devotion to duty. In an organization like the United Nations it requires also a knowledge of international affairs and an imaginative ability to keep track of the vast complex of international problems in the political, economic and social fields.

The problems surrounding the creation of an international secretariat as part of the United Nations are, therefore, of the greatest possible importance for the success of the Organization. They raise difficult issues of political judgment and administrative efficiency. The San Francisco Conference faced these issues squarely and, it is believed, successfully.

### THE SECRETARY-GENERAL

The smooth functioning of the United Nations, it has been suggested, will depend to no small extent on the character of the Secretary-General and the competence and loyalty of the staff he selects. These considerations, which can not be written into the Charter, can be realized only through the action of Members of the

Organization in their wise selection of a Secretary-General and in the development by him of a loyal and competent staff.

The discussions at Dumbarton Oaks on the provisions concerning the Secretariat were largely confined to the powers and the method of election of the Secretary-General. Although certain more detailed items were given brief consideration, it was felt that the Dumbarton Oaks Proposals on this subject might be amplified, if found necessary, at the Conference of the United Nations. It was considered important, however, that the method of election of the Secretary-General and the powers conferred on him should be clearly stated.

The Dumbarton Oaks Proposals conferred upon the Secretary-General the important political power of bringing to the attention of the Security Council any matter which in his opinion might threaten international peace and security. This was a power which had not been enjoyed by the Secretary-General of the League of Nations. The granting of this power considerably modified the concept of a Secretary-General as being primarily the chief administrative officer of the Organization.

At San Francisco some delegations sought to confer still greater powers upon the Secretary-General. On the one hand, it was proposed that he be granted the right to bring to the attention of either the Security Council or the General Assembly any matter which might threaten international peace and security. On the other hand, it was proposed to grant the Secretary-General the right to bring to the attention of the Security Council any violation of the principles of the Charter. The first of these proposals was disapproved because the Secretary-General would have been placed in the embarrassing position of having to choose between the Security Council and the General Assembly. The second proposal was not favored chiefly because it placed upon the Secretary-General a semi-judicial function which the conference thought inadvisable to confer upon him.

The method of election of the Secretary-General is to a considerable degree linked with the political power referred to above. The Dumbarton Oaks Proposals provided for his election by the General Assembly upon the recommendation of the Security Council. Some delegations at San Francisco sought to eliminate the participation of the Security Council in his election and vest it entirely in the General Assembly. However, this effort proved unsuccessful because it was

generally recognized that, although he is to serve all of the organs of the Organization in his capacity as Secretary-General, this was a matter in which the political and security functions of the Security Council required its participation in his election. While willing to empower the Security Council to nominate the Secretary-General, a number of delegations did not wish the vote of the Security Council on this question to require the concurrence of all of the permanent members, and considered that the concern of the Security Council would be adequately taken care of by a vote of any seven members. It was decided, however, that the Yalta formula should apply to the election of the Secretary-General and that the concurring votes of all of the permanent members of the Security Council should be required. The final text of Article 97 of the Charter provides that the Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council; it is in deciding upon this recommendation that the indicated voting procedure of the Security Council is applicable.

The Dumbarton Oaks Proposals left open the question of the term of office of the Secretary-General. An amendment offered by the Sponsoring Powers provided for a three-year term and for eligibility to re-election. This was considered by some to be too short a term to permit the Secretary-General to abandon his previous occupation, and it was urged that a longer term of five or more years be provided. In behalf of the three-year term, it was pointed out that the Secretary-General was eligible for re-election and that the shorter term would make it easier to remove an incompetent or unsatisfactory incumbent. At the same time, a provision for re-eligibility would enable the Organization to retain a Secretary-General who enjoyed the confidence of the Members of the Organization. As a result of this difference of views, it was agreed that no provision be made in the Charter concerning the term of office. It was understood by the Committee that in the absence of any mention of the term of the Secretary-General this matter would be subject to agreement between the Security Council and the General Assembly. It was also understood that the concurring votes of the permanent members of the Security Council would be required in any decision on this question.

## **DEPUTY SECRETARIES-GENERAL**

An amendment offered by the Sponsoring Powers providing for the election of four Deputy Secretaries-General for a term of three-years by the General Assembly, upon the recommendation of the Security Council, provoked considerable discussion. It was feared by some that the proposal of the Sponsoring Powers for four Deputy Secretaries-General would mean that each of the permanent members of the Security Council would assure itself of the election of one of its nationals to the post of Secretary-General or of Deputy Secretary-General. As a result of this view, the Sponsoring Powers modified their proposal to increase the number to five Deputy Secretaries-General and to make them eligible for re-election. The opponents of this provision very effectively argued that if the Deputy Secretaries-General were to be elected in the same manner as the Secretary-General, it would be impossible for the latter to control them, for they would not, in effect, be responsible to the Secretary-General but to the bodies which elected them. They pointed out that instead of having a Secretary-General as a single responsible officer charged with the responsibility of administration, there would in effect be a board or commission of six officers and that responsibility would be dispersed among them. It was also urged that the inclusion of such a specific provision on Deputy Secretaries-General would tend to make the Charter more rigid, and that this was a matter which should be left for the Organization itself to determine. These arguments prevailed over the Sponsoring Powers' amendment and it was agreed that no provision should be made in the Charter concerning Deputy Secretaries-General.

## **THE INTERNATIONAL POSITION OF THE SECRETARIAT**

The Sponsoring Powers and several other delegations submitted amendments to add to the Dumbarton Oaks Proposals a provision on the subject of the responsibility and loyalty of the Secretary-General and his staff to the Organization. Similar provisions had been included in the Constitution of the Food and Agriculture Organization and the Articles of Agreement of the Fund and Bank proposed at Bretton Woods. The intent of the proposals made at San Francisco was to make it perfectly clear that the nationals of member states

serving on the staff of the Secretariat could not, in any sense of the word, be considered as agents of their governments. It was also deemed important to provide that member states accept an obligation to refrain from seeking to influence the Secretary-General or any member of the staff of the Secretariat. These provisions were considered essential to assure that the Secretary-General and the staff would constitute a truly international civil service. They are embodied in Article 100 of the Charter which merits quotation in full:

"1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

"2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities".

A further amendment proposed by Canada and New Zealand, empowering the Secretary-General to appoint the staff under regulations established by the General Assembly and giving expression to the standards which should be observed in the appointment of such a staff, was considered favorably by the Conference. Accordingly, Article 101 of the Charter declares that the staff shall be appointed by the Secretary-General under regulations established by the General Assembly. It is stated that the "paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity". Persons are not required to be selected on the basis of representing all of the Members of the United Nations, but due regard is to be paid "to the importance of recruiting the staff on as wide a geographical basis as possible".

The provisions for the appropriate privileges and immunities of the Secretariat are discussed in the next chapter.

The proposed Secretariat of the United Nations will be, in effect, an international civil service. It will be recruited on the basis of competence, promoted on the basis of merit, and selected with due reference to linguistic and geographical considerations. Unlike a national civil service, however, it will not have the policy-making

authorities (the General Assembly and all of the Councils) constantly available for reference and guidance. The staff must therefore be able to give effect to the decisions of policy-making bodies by exercising a high degree of good judgment and responsibility. In this concept the Secretariat becomes rightly one of the principal organs of the United Nations.

## MISCELLANEOUS PROVISIONS (Chapter XVI)

### REGISTRATION OF TREATIES

One of the contributions which the United States made to democratic control of international relations at the end of the war of 1914-1918 was the objection to the conclusion of secret treaties. President Wilson made this the first of his Fourteen Points. A provision was inserted in Article 18 of the Covenant of the League of Nations requiring all members to register their treaties. In the course of twenty years over 4500 treaties were registered with and published by the League Secretariat.

In 1934 the United States voluntarily agreed to register its treaties in the same way because the Treaty Series published by the Secretariat was found to be a most convenient source in which to find the texts of international agreements, and because the United States was interested in promoting the publication of treaties. It is useful to the Department of State, as well as to other foreign offices, to be able to keep track of the treaty relations of other countries. In 1928 a provision for registration of inter-American treaties was agreed upon at the Habana Conference but no regular system of Pan American registration and publication comparable to that carried on at Geneva has yet developed. The International Civil Aviation Conference at Chicago in 1944 adopted provisions for the registration of agreements on aviation.

Although the subject is one of the details not covered at Dumbarton Oaks, it was natural to include in the Charter (Article 102), a provision for the registration and publication of treaties. Certain definite problems had to be faced. The first was whether the obligation should apply to treaties which had been concluded before the Charter took effect or whether it should apply only to agreements made subsequent to the time when the Charter comes into force. The latter alternative was chosen, in large part because earlier treaties have already been published in the League of Nations Treaty Series and duplication would be wasteful. It will, of course, be open

to any state to register with the Secretary-General of the United Nations any earlier treaties which have not already been registered and published elsewhere.

The second issue involved was the scope of the obligation; should the obligation to register cover every international agreement or only certain ones? Experience had indicated that the registration of every international agreement is unnecessary because many of them are of minor importance and of temporary effect. Such, for example, are numerous agreements between governments for the purchase and sale of commodities and the regulation of financial transactions. A more serious problem was the question whether military agreements concluded with the Security Council for the purpose of carrying out its duties under Chapter VII of the Charter should be registered. There was a realization of the fact that detailed arrangements about the disposition of forces at a time when security measures were actually being taken could not be made public. Accordingly, although the obligation to register is stated in general terms, it was contemplated that regulations would be worked out in practice by the General Assembly concerning the registration or non-registration of particular types of agreements.

The third issue had to do with the penalty which should attach to a failure to register. The Covenant of the League of Nations had declared an unregistered treaty would not be binding. The exact effect of this provision was never made quite clear in practice and the Conference thought that a more definite provision would be advantageous. It accordingly adopted a provision which declares that no state may invoke an unregistered treaty before any of the organs of the Organization. This would mean that if a question arose in which a state wanted to take advantage of the treaty either in a case before the International Court of Justice or in some question which was being considered by the Security Council or by the General Assembly, the state would not be able to rely on the treaty unless it had complied with the obligation to register.

A final question involved the position of states not Members of the United Nations. So far as concerns treaties between a Member and a non-member, the Member has the obligation to register. It is to be assumed that the practice followed in connection with the League of Nations would be continued and that non-member states would have

the privilege of registering, just as the United States registered its treaties with the League. The Charter could not impose this as an obligation on non-members but the Charter can and does indicate that if a non-member wishes to appear before any organ of the Organization, such as the International Court, and there to invoke a treaty, it must accept as a condition the rule about the registration of treaties.

So far as the United States is concerned, compliance with the obligations of this article involves no change in our established practice. It merely continues that practice. The provisions of the Charter have no relation to such treaties as are now in force. Future treaties, if not registered would be binding as between the parties but could not be invoked before an organ of the United Nations. The representatives of the United States in the General Assembly will participate in the development of such detailed regulations as experience may indicate to be desirable.

## INCONSISTENT OBLIGATIONS

The United States and the other United Nations regard the Charter as something more than "just another treaty". The discussion of the earlier articles of the Charter has shown its special nature. The obligations of the Charter ought, therefore, to enjoy a preferred position if they should conflict with other international obligations. At the same time, as the discussion of Chapter VIII on Regional Arrangements has made clear, it has been important to establish the proper relationship between the Charter and other agreements, such as the Act of Chapultepec, which are not inconsistent.

The subject of inconsistent obligations was not dealt with at Dumbarton Oaks. Since Article 20 of the Covenant of the League of Nations had covered the subject in considerable detail it seemed that its omission from the Charter might cause misunderstanding. A simple statement of the fact that the obligations of the Charter prevail over other international obligations in case of conflict has therefore been included in Article 103.

There is an obvious legal principle that a later agreement supersedes an earlier inconsistent agreement between the same parties. It is, therefore, unnecessary for the Charter to declare that it abrogates inconsistent treaties among Members. Article 20 of the Covenant of the League of Nations did indeed contain such a clause, but the inclu-

sion of such a declaration might involve the task of examining all existing treaties for the purpose of finding out which ones contained inconsistent obligations. This examination in turn would make it necessary to give some body the power to review treaties and to make a decision in case of doubt. There might be clear cases where the parties or the International Court of Justice could decide, but in other cases complex political questions and speculations about future events might be involved. It might well be true that an inconsistency would not be apparent until a case arose for the application of security measures by the Security Council against a state which had violated its obligations under the Charter. If such a case should arise, Article 103 provides the simple rule that the Charter prevails. Accordingly, no legal technicalities of this character will hinder a Member from loyally complying with its obligations under Articles 2, 48 and 49 of the Charter.

The situation is less simple when a Member of the United Nations has outstanding treaties with a state which is not a Member. The Charter cannot, to be sure, impose obligations upon a non-member, but the operation of the Charter must not be defeated by the invocation of treaties between Members and non-members. It would have been possible to put in the Charter a paragraph like that in Article 20 of the Covenant of the League of Nations which required Members of the League to negotiate their release from inconsistent treaties with non-members. Again the wise course seemed to be to rely on the statement of a simple principle in the Charter and upon the loyal cooperation of the Members. If a non-member state should resort to aggression and become the object of security measures, a Member should not be able to plead inability to discriminate against a non-member because some commercial treaty, for example, called for freedom of trade between the two states. Under Article 50, the member state could properly consult the Security Council. According to Paragraph 6 of Article 2, the United Nations might then take appropriate action.

The inclusion of Article 103 in the Charter thus does not mean that the United States is bound to review all of its treaties and to seek to cancel some of them. If events indicate that any obligations in treaties to which the United States is a party are inconsistent with the Charter, the situation will be cared for when it arises in the manner which

has been indicated. In so far as our other international obligations are concerned the Charter contains a provision which will enable the United States and other Members to accept the Charter as the fundamental rule of conduct in the fields to which it applies.

## LEGAL CAPACITY

It is apparent that an organization like the United Nations which will have offices and employees, will purchase supplies, and presumably rent or purchase office space, must have the legal capacity to enter into contracts, to take title to real and personal property and to appear in court (although its position as a defendant is protected by Article 105). The purpose of Article 104 is to make clear that the Organization has that legal capacity. No such provision was included in the Covenant but the capacity was recognized in practice as in the relations between the League of Nations and the Swiss Government. A provision similar to that stated in this article was included in the agreements relative to the following United Nations organizations: Food and Agriculture Organization; UNRRA; International Monetary Fund; International Bank for Reconstruction and Development; Provisional International Civil Aviation Organization. The need for such a provision was discussed and rediscussed at the conferences dealing with those organizations and it has been the conclusion that for some states at least it is helpful to have such a provision included in the Charter to remove any doubt. It is the national law of each country which determines whether a particular body or organization which is not set up as a corporation under the law of that country will have legal capacity. National laws vary greatly on this matter; in some instances Article 104 may be unnecessary, in some cases it may need to be supplemented by legislation, and in others it may operate of its own force to confer the necessary status. The simple text adopted, using the same criterion as that applied in the case of privileges and immunities under Article 105, should be ample to take care of the actual needs of the Organization.

This Article does not deal with what is called the "international personality" of the Organization. The Committee which discussed this matter was anxious to avoid any implication that the United Nations will be in any sense a "super-state". So far as the power to enter into agreements with states is concerned, the answer is given

by Article 43 which provides that the Security Council is to be a party to the agreements concerning the availability of armed forces. International practice, while limited, supports the idea of such a body being a party to agreements. No other issue of "international personality" requires mention in the Charter. Practice will bring about the evolution of appropriate rules so far as necessary.

## PRIVILEGES AND IMMUNITIES

The United States, in common with all other states of the world, has traditionally granted to the diplomatic representatives of other states certain privileges and immunities. These privileges and immunities have been found over the course of several hundred years to be necessary in order to enable diplomatic representatives to carry out their missions as representatives of states. The laws of the United States have provided for such appropriate treatment for foreign diplomatic officials ever since 1790. It has also been usual to give a special status to an official representing his government at an international conference and in those cases the official has customarily received appropriate consideration from the government of the state in which the conference is held. In recent years, with the trend in international relations to entrust various international tasks to intergovernmental organizations, the need has been felt for according certain privileges and immunities to the officials and representatives of such organizations when engaged on their official duties.

The exact nature of the privileges and immunities to which international organizations and their officials are entitled is not yet sufficiently clear due to the fact that the practice is relatively new and has necessarily varied from one organization to another dependent upon their respective functions. Therefore, Article 105 stipulates that the Organization itself, the representatives of the Members and the officials of the Organization shall have the "necessary" privileges and immunities.

A comparable stipulation is contained in Article 7 of the Covenant of the League of Nations and in 1926 an agreement was entered into between the League and the Swiss Government, since the seat of the League was in Switzerland. The Statute of the Permanent Court of International Justice accords diplomatic privileges and immunities

to the judges when engaged on the business of the Court, and in conformity with that provision an agreement was reached with the Netherlands Government. Likewise, the officials of the International Labor Organization were accorded similar status both in Switzerland and later in Canada when the Office moved to Montreal.

Several United Nations conferences which have already been held and which have either established or proposed the establishment of international organizations, have made provision in one way or another for the privileges and immunities of the organizations and their officials. This has been true in regard to the conferences which dealt with the Food and Agriculture Organization, UNRRA, the International Monetary Fund, the International Bank for Reconstruction and Development, and the Provisional International Civil Aviation Organization.

Although this matter of detail was also left to one side in the Dumbarton Oaks discussions, it was naturally included in the Charter in order to insure the smooth functioning of the Organization free from interference by any state. This Article supplements Chapter XV which contains the basic principles concerning the international Secretariat. The United Nations, being an organization of all of the member states, is clearly not subject to the jurisdiction or control of any one of them and the same will be true for the officials of the Organization. The problem will be particularly important in connection with the relationship between the United Nations and the country in which it has its seat. The problem will also exist, however, in any country in which the officials of the United Nations are called upon from time to time to perform official duties. The United States shares the interest of all Members in seeing that no state hampers the work of the Organization through the imposition of unnecessary local burdens.

It would have been possible to make the simple statement that all of these officials and representatives would have diplomatic privileges and immunities but it is not necessarily true that these international officials will need precisely the same privileges and immunities as are needed by the diplomatic representatives of individual states. It accordingly seemed better to lay down as a test the necessity of the independent exercise of the functions of the individuals in connection with the Organization.

The provisions of Article 105 relate only to the Organization itself, and to its officials, and not to other public international organizations which may be brought into relationship with it. This is true because the statutes or agreements under which these other organizations are set up presumably will provide for the status of their respective officials.

The operation of this provision may not be automatic. It will depend upon the laws and governmental system of each state whether additional legislation will be required in order to enable each Member to carry out the obligations which this Article places upon it. Some states may take care of the matter by administrative regulation or under existing laws; others may feel the need for enacting additional legislation. Article 105 authorizes the General Assembly to make recommendations to Members regarding the implementation of the Article in the several countries, or, should it seem wiser, to propose conventions to the Members for this purpose. This Article of the Charter suggests the general rule and the general obligations, leaving it to experience to suggest the elaboration of the details.

So far as the United States is concerned, legislation will be needed to enable the officials of the United States to afford all of the appropriate privileges and immunities due the Organization and its officials under this provision. Such legislation would deal with such exemption from various tax burdens and other requirements as is commonly granted to representatives of foreign governments. The enactment of legislation and its application to such persons would not be for the purpose of conferring a favor upon any individuals. It would rather be for the purpose of assuring to the Organization the possibility that its work could be carried on without interference or interruption. The according of such privileges and immunities is merely one aspect of cooperating with the Organization itself.

# TRANSITIONAL SECURITY ARRANGEMENTS

## (Chapter XVII)

### INTRODUCTION

Nowhere more clearly than in the Chapter on transitional security arrangements is there manifested the intelligent realism of the architects of the United Nations. From the outset these men faced squarely the fact that the Charter could not create an Organization which would spring into being possessed from the start of full power to maintain international peace and security. They knew that if it was to succeed it must not be burdened at the outset with responsibilities which it could not immediately fulfill. They knew that it must be given time to become firmly established. Above all, they knew that it would be not only an impossibility but a tragic mistake to throw upon the Organization the task of enforcing the peace against the enemy states.

Armed force is the ultimate sanction in the enforcement of peace. The United Nations will have no armed force at its disposal until at least some of the agreements envisaged in Article 43 become effective. This difficulty is taken care of by Article 106, the first of the two which comprise this short Chapter. During the indefinite time which must elapse before the Security Council decides that enough of the agreements are effective for it to begin the exercise of its responsibilities for military enforcement action, the five great powers which are to be the permanent members of the Security Council undertake to exercise on behalf of the Organization, jointly and with other members of the United Nations, such security functions as may be necessary.

Article 107 is concerned with the enemy states in the present war. By this provision the authority and the responsibility for the enforcement of the terms imposed upon those states and for the measures to prevent them from again menacing the peace are to be left to the victorious states. The responsibilities which the Security Council may have in respect to these enemies, and the time and manner of the transfer to it of those responsibilities, are matters to be decided at a later date.

The actual duration of the periods envisaged in these two articles cannot now be foreseen. It will depend on the speed with which the special agreements on the supply of armed forces are concluded, on the state of world affairs, on the rapidity with which the new Organization demonstrates its capacities, and, in respect to Article 107, on the effectiveness of measures taken against the defeated powers. Delegates at the San Francisco Conference expressed the hope, which the American people will surely share, that the day is not many years off when Chapter XVII will become a dead letter. The onerous burdens which the great powers will have to bear as members of the responsible five will surely lead them to hasten that day by transferring their special responsibilities to the Organization as speedily as practicable.

### FILLING THE GAP

It is highly appropriate that the Moscow Declaration should figure prominently in Article 106, which not only mentions it by name but paraphrases it as well. Not only did that great instrument give the world promise of a new international organization and mark the beginning of great-power cooperation to make that promise a fact; it also specifically provided that the great powers would cooperate with each other and with other United Nations for the maintenance of international peace and security pending the reestablishment of law and order and the inauguration of a system of general security.

Modified to fit the circumstances, paragraph 5 of the Moscow Declaration was presented to the United Nations Conference as Paragraph 1 of Chapter XII of the Dumbarton Oaks Proposals. The delegations at San Francisco from nations not represented at Dumbarton Oaks offered only two amendments affecting this paragraph. One, a French proposal to add the name of France to those of the other four powers, was adopted at once by acclamation. The other, a Mexican suggestion that the whole of this chapter be divorced from the Charter and made the subject of a separate protocol, was rejected by the Technical Committee.

The amendments being disposed of and consideration of the paragraph itself begun, it developed that, while all delegations approved the substance, few agreed with the five powers that the language was clear. Considerable discussion took place, revolving around three

closely related issues, all of which applied in different degree to Paragraph 2 of Chapter XII (Article 107) as well: the duration of the interim period; the location of authority to terminate it; and the functions which the Security Council would be able to exercise until the agreements were in force. Votes on two occasions having demonstrated that the other delegations were determined on more precision, the five powers, furnishing another example of their willingness to compromise and of their cooperation, jointly presented a revised text which was adopted unchanged as Article 106.

The revisions were all in the first part of the text (corresponding to Paragraph 1 of Article XII of the Dumbarton Oaks Proposals), which now makes it clear that not all the special arrangements for the provision of armed forces have to be ratified — a process which might take years — before the Security Council can take military enforcement action. Only such agreements as the Security Council itself deems sufficient for the purpose need be in effect.

Article 106 does not, as some delegates wished it to, define precisely the functions of the Security Council during the interim period, nor the limits of the joint action which the five powers may take. Had it done so it would have established a fixed and frozen division of responsibility, and thus defeated its own purpose, which is to provide for the orderly growth of the Security Council's functions, to permit it to take successively larger bites of responsibility. This flexibility is accomplished in two ways. First, only the power to take military enforcement action is withheld from the Security Council and that only temporarily. Secondly, the five powers which will be permanent members of the Security Council are granted authority to fill the temporary vacuum to the extent necessary by taking action on behalf of the Organization. It should be emphasized, however, that this five-power action must be joint and that consultation with other members of the United Nations is provided for. In other words, while this action may, in a formal sense, be outside the framework of the Organization, it is to be completely within the spirit of the Charter.

## THE CHARTER AND THE ENEMY STATES

The four powers which signed the Moscow Declaration never intended that the world organization to be created should be charged with control over the defeated enemy, at least for a considerable time.

For the reasons already stated, both the effectiveness of enforcement measures and the success of the Organization would probably have been jeopardized if this had been tried. Therefore, when the Dumbarton Oaks Proposals were written it was but natural that they should include provision to leave the control of the defeated states to the responsible governments.

That this view was shared by all the Governments represented at San Francisco is shown by the fact that Paragraph 2 of Chapter XII of the Dumbarton Oaks Proposals (Article 107 of the Charter) was not the subject of any amendments. Like Paragraph 1, however, it was criticized on the ground that it lacked precision and clarity, but in this case the five powers did not feel it advisable to offer or accept any significant change, although they were agreeable to a slight modification in phraseology. The Technical Committee sustained the five powers by an overwhelming majority, after some oral clarification of the intent which was incorporated in the Rapporteur's report.

There is one fact about Article 107 which should be noted. While no limitation can be imposed by the Organization on action taken for the control of the present enemy, the Organization itself is not barred by any language in the Charter from acting in this field, so that the responsible governments may, whenever and in whatever degree they wish, transfer responsibilities of this character to it.

One further point considered by the Technical Committee dealing with this Chapter was an amendment offered by the Government of Greece, the effect of which would have been to prevent enemy states from having recourse to the Security Council or the General Assembly. The Committee rejected this amendment, believing that its intent was adequately covered in other places in the Charter and that the right of recourse should not be emphasized. However, there was general approval of its intent, and, on the proposal of the United States Delegate, the Committee voted unanimously to insert in its report an understanding that the enemy states in this war shall not have the right of recourse to the Security Council or the General Assembly until the Security Council grants them this right.

## CONCLUSION

The provisions of Chapter XVII do not mean any weakening of the United Nations — any taking away of what is granted elsewhere

in the Charter. On the contrary, they will contribute in the long run to its waxing strength and success.

For the United States, Article 106 will mean a greater responsibility for world security than is accorded by the main body of the Charter. To be one of five necessarily involves more responsibility than to be one of many, even though the special attributes of the five powers will cause them to remain a distinctive element in the world structure. Article 107 imposes no such responsibility. The responsibility exists, but it derives from the war and the surrender terms, not from the Charter. Indeed, in a very real sense not even Article 106, nor any other provision of the Charter, imposes any extra responsibility on this country, except in the contractual obligation to collaborate for the maintenance of international peace and security. The same responsibility would devolve upon the United States whether a world organization had been created or not. It results not from the Charter but from the position of the United States in world affairs, that is, from its power, its authority and its moral prestige.

## AMENDMENTS

### (Chapter XVIII)

The goal at Dumbarton Oaks was to agree on the broad outlines of an Organization which would permit peace-loving states to act effectively for the maintenance of peace and security. It was understood, however, that the eventual success of this undertaking would depend on much more than the preparation of a legal instrument. A general sense of mutual confidence would have to be created; and it was recognized that this would not happen overnight. To foster and encourage the development of a real sense of security, the Organization must be given as binding and permanent a form as possible. This did not mean, of course, that changing circumstances might not make alterations in the Charter desirable, indeed necessary. But to meet this need it was thought sufficient to provide that the General Assembly might adopt Charter amendments at any time by a two-thirds vote, subject to ratification by all the members having permanent representation on the Security Council and by a majority of the Organization's other members.

Those who seek to develop procedures for the peaceful settlement of international disputes always confront the hard task of striking a balance between the necessity of assuring stability and security on the one hand and of providing room for growth and adaptation on the other. This difficulty was present at San Francisco. If the possibility of Charter amendment was to be one method of satisfying those who feared lest the status quo be permanently frozen, how make sure that the rights and duties of Members would not, in the process of amendment, be brought into a different balance from that which Members had originally accepted? This was of serious concern to the powers which were preparing to undertake primary responsibility for the maintenance of peace and security, even, if need be, by force of arms. It was also of concern to all states whose constitutions require that amendments to any treaty must secure parliamentary ratification. In a third category of interested states were those which feared that amendments might change the original relationship set up among the great powers, or between them and the smaller powers, and that such a change might adversely affect their own interests.

Before the United States Delegation went to San Francisco the question arose as to whether an opportunity for piecemeal amendment of the Charter would be enough. Might not a possibility for the re-examination of the whole Charter in the light of experience be advisable? It was urged from several quarters (notably by Prime Minister Mackenzie King of Canada on March 20, 1945) that the difficulty of shaping a world organization under the abnormal conditions of wartime would warrant taking a look at the structure as a whole at some future date. The United States Delegation was averse to any proposal which might make the Organization seem transitional or provisional; but it did recognize the desirability of providing for the possibility of a more general review than could conveniently be carried out by the method of separate amendments introduced in regular Assembly meetings from time to time.

The United States Delegation continued to study the problem after its arrival in San Francisco, and on April 25 agreed upon the text of a paragraph which might be inserted in Chapter XI. This new article provided that a general conference might be called to review the Charter whenever three-quarters of the Assembly so requested and when the Security Council, acting by a procedural vote, concurred; and, further, that any Charter amendments which such a general conference might recommend by a two-thirds vote would become effective after ratification in accordance with the same procedure to be followed in the case of amendments issuing from ordinary Assembly meetings.

This proposal was presented by the United States Delegation at a meeting of the Sponsoring Powers held on May 3. After a thorough discussion, in which Messrs. Stettinius, Eden, Molotov and Soong all participated, the American text was accepted without change, and in due course was jointly recommended to the Conference as one of the suggested Sponsoring Powers amendments.

## VIEWS OF THE OTHER NATIONS ON THE GENERAL CONFERENCE

Very early in the discussions of the technical committee considering the amending process several delegations showed that they wished to go even further than had been proposed by the United States Dele-

gation. They desired to make the calling of the general conference easier and they wished to have some date for it indicated. They put forward, in particular, three suggestions: 1) the three-fourths vote required in the Assembly to call such a conference might be changed to two-thirds; 2) a bracket of dates might be set, and the general conference might be made mandatory at any time within the period indicated; 3) a specific date for the conference might be fixed.

The first proposal was supported almost unanimously by the smaller nations. The second proposal was incorporated in motions put forward by the Brazilian and Canadian delegates to the effect that the general conference must be held within the period from five to ten years following the establishment of the Organization. Other delegates advanced the more extreme demand that the date be fixed now, preferably for the fifth or seventh year.

The United States Delegation was prepared to accept the first suggestion if the other four great powers were agreeable. It involved a slight alteration in the Dumbarton Oaks plan beyond what they had agreed to accept at the start of the San Francisco Conference; but the further liberalization of the vote by which a general conference might be called seemed unobjectionable, indeed proper and advisable. It did, however, oppose both the other proposals, and for weighty reasons. It was reluctant to introduce an added factor of uncertainty into the postwar period, as would be the case if it were known that the whole Charter was bound to come up for general revision at a fixed date, whether or not the majority of Members at that time so desired; and it feared that any date chosen in advance might fall in some period of political or economic crisis when an undertaking of such scope and importance would be inadvisable. The Soviet Delegation concurred in this view strongly, as did the three other great powers.

The five delegations thus found themselves in agreement against mentioning any specific date or bracket of dates in the Charter. But as the discussion in the technical Committee and its Subcommittee proceeded they were not in agreement as to how to deal with the amendment which the Canadian delegate was pressing there strongly, with the backing of several other delegations. Eventually, however, after consulting together, the Sponsoring Powers and France proposed that the vote necessary to call a general conference be changed

from three-quarters to two-thirds of the members of the Assembly (with concurrence of any seven members of the Security Council); and that the following sentence, which originated in the United States Delegation, be added to the appropriate paragraph of the Sponsoring Powers proposal:

"If such a general conference has not been held before the tenth annual meeting of the Assembly following the entry into force of the Charter, the proposal to call such a general conference shall be placed on the agenda of that meeting of the Assembly."

Of these two concessions to the views of the smaller powers, the first was at once accepted unanimously. The second, which was warmly welcomed by many delegations as evidence of a helpful spirit of conciliation, was left for consideration after decisions had been reached on the knotty problem of the veto. Before this could be tackled, however, the Committee had to settle how amendments were to be adopted and ratified. Closely connected with all these matters in the minds of many delegates, furthermore, was the question of possible withdrawal from the Organization.

## AMENDMENTS AND THE VETO

Throughout the Conference the necessity for the five great powers to act by unanimity in the Security Council had been debated at length. The subject was settled, as far as ordinary proceedings of the Organization were concerned, in the Committee dealing with the powers and procedure of the Security Council. But the delegates of nations which were dissatisfied with the decision in that Committee hoped that even though the central fight against the veto had been lost, they might succeed in getting the veto removed in the case of amendments issuing from a general revisionary conference.

It was of even greater interest to certain delegations, on the other hand, to make sure that before amendments entered into force they would have to receive ratification by a larger number of members than had been fixed in the original text. These delegations expressed their willingness to accept the veto of the great powers over amendments provided this majority were increased. Accordingly, the following text was offered by the Belgian delegate as regards amendments which might issue from a general revisionary conference, and was supported by the Sponsoring Powers:

"Any alterations of the Charter recommended by a two-thirds vote of the Conference shall take effect when ratified in accordance with their respective constitutional processes by two-thirds of the members of the Organization, including all the permanent members of the Security Council."

Although this proposal met objection from those who wished to make the whole amendment procedure easier, as well as from those who were strongly opposed to the right of veto by the permanent members of the Security Council, it was found to be agreeable to the necessary two-thirds majority of the members of the Committee, and was adopted with only stylistic changes. The procedure indicated was also adopted as regards amendments issuing from ordinary meetings of the General Assembly. (Articles 108 and 109.)

At this point the United States Delegation offered the following amendment, in lieu of its earlier proposal, to meet the strong desire of many delegations regarding the calling of a revisionary conference:

"If such a general conference has not been held before the tenth annual meeting of the Assembly following the entry into force of the Charter, the proposal to call such a general conference shall be placed on the agenda of that meeting of the Assembly, and the conference shall be held if so decided by a simple majority of the Assembly and by any seven members of the Security Council."

It will be noted that this proposal did not make a revisionary conference mandatory at any fixed date. It did, however, ensure that, if the conference had not been held earlier, the determination as to whether it should be held would be made by an extremely democratic procedure in the tenth year of the Organization's life; and, further, that the Assembly would at that time, if it saw fit, fix the exact date. The proposal met with wide acclaim. The Soviet Delegation, however, had stated in advance to the United States Delegation that it did not wish to go so far in the direction of providing for a special revisionary conference, and agreement had been reached in advance that each of the five great powers should proceed in the matter as it thought best. The proposal of the United States Delegation was adopted and became, with minor stylistic changes; the third paragraph of Article 109.

## AMENDMENTS AND WITHDRAWAL

The United States Delegation's attitude on the subject of possible withdrawal from the Organization has been described in the part of this report dealing with membership. Its general attitude had to be reviewed, however, in connection with the possibility that Members might find certain amendments unacceptable. The question, here as in the other case, was whether or not the Charter should contain an express provision on the subject. Some delegations preferred that it should. The view of the United States Delegation was that the general statement of the implicit right of withdrawal in case of the general frustration of the Charter could properly be amplified to take care of cases in which Members were asked to accept amendments to which they had serious objection or when amendments which they considered vital failed of ratification. This view prevailed, and the text of the Charter itself makes no reference to withdrawal.

The final discussions of these complicated matters took place in an atmosphere of mutual conciliation. Many delegates rose to state their opinion that the spirit of harmony which prevailed in the Committee, and afterwards extended to the sessions of the Commission where the actions of the Committee were duly ratified, was due in large part to the efforts of the United States Delegation to find a generally satisfactory solution of the problem of how and when to call a revisionary conference. The procedure adopted met the desires of the large number of delegations which wanted some assurance that there would be an opportunity to review the work done at San Francisco in the light of experience, and that this opportunity should not be delayed indefinitely in case a majority of the member nations felt that the moment was ripe.

## RATIFICATION AND SIGNATURE

### (Chapter XIX)

The final chapter of the Charter contains technical provisions concerning the ratification of the Charter and the time at which it comes into force. In its two articles there are a few points which warrant mention in this Report. No provisions on these points were drawn up at Dumbarton Oaks, since the Proposals framed there were not in final treaty form.

Paragraph 1 of Article 110 contains a provision analogous to that included in Article 108 dealing with amendments, namely, that ratification shall be effected in accordance with the constitutional processes of the signatory states. This is a self-explanatory but important specification.

Paragraph 2 of Article 110, in accordance with the usual diplomatic procedure, names the Government of the United States as the depositary of the ratifications. The United States is obligated to notify all the signatory States of each deposit as well as the Secretary-General when he has been elected. It was suggested during the debates that the ratifications might be deposited with the Preparatory Commission until the Secretary-General was elected and thereafter with him, but the Conference adopted the other procedure.

Paragraph 3 of Article 110 determines when the Charter shall come into force. The provision follows closely an amendment to the Dumbarton Oaks proposals which was introduced jointly by the Sponsoring Powers at San Francisco. In the case of multipartite treaties involving mutual rights and obligations, it is of great importance to determine which of the signatories and how many of them must give their approval before the treaty becomes binding. Otherwise, a small number of the signatories might find themselves bound by obligations which were drafted in the expectation that there would be many partners in the enterprise and which would be impossible of fulfillment in the absence of certain of the states which were also signatories to the treaty.

In the case of the Charter this difficulty would obviously arise unless a provision were inserted to guard against it. The whole discussion of the Charter in this Report reveals that the functioning of the United Nations as an organization depends upon the participation and

cooperation of the Five Powers which will have permanent seats in the Security Council and upon the cooperation with them of other states. Accordingly, Article 110 provides that the ratifications of the United States, the United Kingdom, the Soviet Union, China, and France, and of a majority of the other signatory states, must be deposited before the Charter takes effect. The Government of the United States is required to draw up a protocol or record of the fact that the required number of ratifications have been deposited and to communicate copies of the protocol to all the signatory states.

Article 111 contains the novel provision that the five texts of the Charter are equally authentic—Chinese, French, Russian, English, and Spanish. It has been quite usual to provide that texts in two different languages should be equally authentic, and many inter-American treaties have been drawn up in the four languages of the Western Hemisphere—English, French, Portuguese, and Spanish. The Charter is the first such document in five different tongues. The fact that two of the languages, Russian and Chinese, are not commonly understood in many of the other countries represented at San Francisco, presented a difficult mechanical problem of translation, but this was overcome by an elaborate organization in the Secretariat and by the establishment of "language panels" on which representatives of various governments were included. The United States was represented by a competent linguist on each one of these panels. Problems of reconciling the five texts may arise as they have arisen in the past when even two languages were equally authentic; they can be solved by comparison of the texts, by reference to the documentation of the Conference proceedings, and by other familiar procedures. There is significance in the fact that the Charter, which is the Charter of all the United Nations, is authoritatively written in languages which are spoken in every corner of the world.

## THE PREPARATORY COMMISSION OF THE UNITED NATIONS

The Preparatory Commission is designed to bridge the gap between the signing of the Charter at San Francisco and the convening of the first sessions of the principal organs of the United Nations.

When the League of Nations was established, interim arrangements were unnecessary because the first Secretary-General was named in the Annex to the Covenant, and Geneva had been selected as its permanent seat. The Secretary-General was authorized to start immediately the work of organizing the Secretariat and preparing for the first session of the Assembly. Since the San Francisco Conference did not select the first Secretary-General of the United Nations or determine the location of the seat of the Organization, it was necessary to provide some other kind of arrangement for initiating the necessary preparations incident to the establishment of the Organization.

The two principal tasks of the Commission are first, to study and make recommendations on certain questions which could not well be handled at San Francisco, and, second, to expedite the work of the new organization by thorough preparation for its initial meetings. Both tasks are of great importance but the second particularly so because of the extreme urgency of the many problems awaiting action by the General Assembly, the Security Council, the Economic and Social Council and other organs.

In order to make it possible to set up the Commission immediately, the instrument creating it was put in the form of an informal interim arrangement, with the provision that it come into effect on the day on which it was signed. It was signed at the same time as the Charter.

In view of the importance of the work to be done, it was decided to make the Commission fully representative of the Governments signatory to the Charter. It consists of one representative of each signatory Government. An Executive Committee is provided to exercise the functions and powers of the Commission when it is not in session. This Committee is composed of the same states as those which made up the Executive Committee of the Conference, namely Australia, Brazil, Canada, Chile, China, Czechoslovakia, France, Iran,

Mexico, Netherlands, Union of Soviet Socialist Republics, United Kingdom, United States, and Yugoslavia.

The functions of the Commission fall into two groups, as mentioned above. The first includes: (1) formulation of recommendations concerning the possible transfer of certain functions, activities and assets of the League of Nations which it may be considered desirable for the United Nations to take over on terms to be arranged; (2) examination of problems involved in the establishment of the relationship between specialized intergovernmental organizations and agencies and the United Nations; and (3) preparation of studies and recommendations concerning the location of the permanent headquarters of the United Nations.

The second group of functions includes: (1) convening the first session of the General Assembly; (2) preparing the provisional agenda for the first session of the principal organs of the United Nations, and preparing documents and recommendations, relating to all matters on these agenda; (3) issuance of invitations for the nomination of candidates for the International Court of Justice in accordance with the provisions of the Statute of the Court; (4) preparation of recommendations concerning arrangements for the Secretariat of the United Nations.

It was decided to locate the Commission in London. The Secretariat of the Commission headed by an Executive Secretary will be established there. The staff of the Secretariat is to be composed so far as possible of officials appointed for the purpose, on invitation of the Executive Secretary, by the participating Governments.

The Commission was to hold its first session in San Francisco immediately after the closing session of the Conference in order to perfect its organization and make plans for the carrying on of its work by the Executive Committee which will meet in the near future in London. The Executive Committee will call the Preparatory Commission into session again as soon as possible after the Charter of the United Nations has come into effect. Further sessions would be held if desirable, but it is hoped that the first sessions of the principal organs can be convened shortly after the ratification of the Charter.

**The Commission will cease to exist upon the election of the Secretary-General of the United Nations, and its property and records will be transferred to the United Nations.**

## Appendix A

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*There follows, on the left hand pages of this Appendix, the complete text of the Charter of the United Nations adopted at San Francisco. On the right hand facing pages of the Appendix, there appears the text of the proposals adopted at Dumbarton Oaks. The material has been set up in parallel form to facilitate comparison.*

### CHARTER OF THE UNITED NATIONS

#### WE THE PEOPLES OF THE UNITED NATIONS DETERMINED

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and  
to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and  
to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and  
to promote social progress and better standards of life in larger freedom,

#### AND FOR THESE ENDS

to practice tolerance and live together in peace with one another as good neighbors, and  
to unite our strength to maintain international peace and security, and to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and to employ international machinery for the promotion of the economic and social advancement of all peoples,

#### HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS.

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

## Appendix A

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*There follows, on the right hand pages of this Appendix, the text of the Proposals adopted at Dumbarton Oaks. On the left hand facing pages of the Appendix, there appears the complete text of The Charter of the United Nations adopted at San Francisco. The material has been set up in parallel form to facilitate comparison.*

### DUMBARTON OAKS PROPOSALS

THERE should be established an international organization under the title of The United Nations, the Charter of which should contain provisions necessary to give effect to the proposals which follow.

## **CHAPTER I PURPOSES AND PRINCIPLES**

### **Article 1**

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
3. To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a center for harmonizing the actions of nations in the attainment of these common ends.

### **Article 2**

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.
3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.
5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.
6. The Organization shall ensure that states which are not Members of

## **CHAPTER I**

### **PURPOSES**

The purposes of the Organization should be:

1. To maintain international peace and security; and to that end to take effective collective measures for the prevention and removal of threats to the peace and the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means adjustment or settlement of international disputes which may lead to a breach of the peace;
2. To develop friendly relations among nations and to take other appropriate measures to strengthen universal peace;
3. To achieve international cooperation in the solution of international economic, social and other humanitarian problems; and
4. To afford a center for harmonizing the actions of nations in the achievement of these common ends.

## **CHAPTER II**

### **PRINCIPLES**

In pursuit of the purposes mentioned in Chapter I the Organization and its members should act in accordance with the following principles:

1. The Organization is based on the principle of the sovereign equality of all peace-loving states.
2. All members of the Organization undertake, in order to ensure to all of them the rights and benefits resulting from membership in the Organization, to fulfill the obligations assumed by them in accordance with the Charter.
3. All members of the Organization shall settle their disputes by peaceful means in such a manner that international peace and security are not endangered.
4. All members of the Organization shall refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the Organization.
5. All members of the Organization shall give every assistance to the Organization in any action undertaken by it in accordance with the provisions of the Charter.
6. All members of the Organization shall refrain from giving assistance to any state against which preventive or enforcement action is being undertaken by the Organization.

The Organization should ensure that states not members of the Organization act in accordance with these principles so far as may be necessary for the maintenance of international peace and security.

## **Appendix A—(Continued)—Charter of the United Nations**

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the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

### **CHAPTER II MEMBERSHIP**

#### **Article 3**

The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with Article 110.

#### **Article 4**

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.

2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

#### **Article 5**

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

#### **Article 6**

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

7. The provisions of paragraph 1 to 6 of Section A should not apply to situations or disputes arising out of matters which by international law are solely within the domestic jurisdiction of the state concerned.

*(From Ch. VIII, Sec. A, Par. 7)*

### **CHAPTER III MEMBERSHIP**

1. Membership of the Organization should be open to all peace-loving states.

2. The General Assembly should be empowered to admit new members to the Organization upon recommendation of the Security Council.

*(From Ch. V, Sec. B, Par. 2)*

3. The General Assembly should, upon recommendation of the Security Council, be empowered to suspend from the exercise of any rights or privileges of membership any member of the Organization against which preventive or enforcement action shall have been taken by the Security Council. The exercise of the rights and privileges thus suspended may be restored by decision of the Security Council . . .

*(From Ch. V, Sec. B, Par. 3)*

. . . The General Assembly should be empowered, upon recommendation of the Security Council, to expel from the Organization any member of the Organization which persistently violates the principles contained in the Charter.

*(From Ch. V, Sec. B, Par. 3)*

### CHAPTER III ORGANS

#### Article 7

1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.

2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

#### Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

### CHAPTER IV THE GENERAL ASSEMBLY

#### Composition

#### Article 9

1. The General Assembly shall consist of all the Members of the United Nations

2. Each Member shall have not more than five representatives in the General Assembly.

#### Functions and Powers

#### Article 10

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

#### Article 11

1. The General Assembly may consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.

## CHAPTER IV PRINCIPAL ORGANS

1. The Organization should have as its principal organs:
  - a. A General Assembly;
  - b. A Security Council;
  - c. An international court of justice; and
  - d. A Secretariat.
2. The Organization should have such subsidiary agencies as may be found necessary.

## CHAPTER V THE GENERAL ASSEMBLY

### Section A. Composition

All members of the Organization should be members of the General Assembly and should have a number of representatives to be specified in the Charter.

### Section B. Functions and Powers

1. The General Assembly should have the right to consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments; to discuss any questions relating to the maintenance of international peace and security brought before it by any member or members of the Organization or by the Security Council; and to make recommendations with regard to any such principles or questions. Any such questions on which action is necessary should be referred to the Security Council by the General Assembly either before or after discussion . . .

*(See above, Ch. V, Sec. B, Par. 1)*

## **Appendix A—(Continued)—Charter of the United Nations**

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2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.

### **Article 12**

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

### **Article 13**

1. The General Assembly shall initiate studies and make recommendations for the purpose of:

a. promoting international cooperation in the political field and encouraging the progressive development of international law and its codification;

b. promoting international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

2. The further responsibilities, functions, and powers of the General Assembly with respect to matters mentioned in paragraph 1(b) above are set forth in Chapters IX and X.

## **Appendix A—(Continued)—Dumbarton Oaks Proposals**

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*(See above, Ch. V, Sec. B, Par. 1)*

. . . The General Assembly should not on its own initiative make recommendations on any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council.

*(From Ch. V, Sec. B, Par. 1)*

6. The General Assembly should initiate studies and make recommendations for the purpose of promoting international cooperation in political, economic and social fields and of adjusting situations likely to impair the general welfare.

*(From Ch. V, Sec. B, Par. 6)*

**Article 14**

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

**Article 15**

1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.
2. The General Assembly shall receive and consider reports from the other organs of the United Nations.

**Article 16**

The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

**Article 17**

1. The General Assembly shall consider and approve the budget of the Organization.
2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.
3. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

*(See below, Articles 23, 61, 97. Also, Article 10 of the Statute of the International Court of Justice)*

## **Appendix A—(Continued)—Dumbarton Oaks Proposals**

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*(See above, Ch. V, Sec. B, Par. 6)*

8. The General Assembly should receive and consider annual and special reports from the Security Council and reports from other bodies of the Organization.

*(From Ch. V, Sec. B, Par. 8)*

5. The General Assembly should apportion the expenses among the members of the Organization and should be empowered to approve the budgets of the Organization.

*(From Ch. V, Sec. B, Par. 5)*

*(See below, Ch. IX, Sec. C, Par. 1d)*

4. The General Assembly should elect the non-permanent members of the Security Council and the members of the Economic and Social Council provided for in Chapter IX. It should be empowered to elect, upon recommendation of the Security Council, the Secretary-General of the Organization. It should perform such functions in relation to the election of the judges of the international court of justice as may be conferred upon it by the statute of the Court.

**Voting**

**Article 18**

1. Each member of the General Assembly shall have one vote.
2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 (c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.
3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

**Article 19**

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

**Procedure**

**Article 20**

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.

**Article 21**

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

## **Appendix A—(Continued)—Dumbarton Oaks Proposals**

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### **Section C. Voting**

1. Each member of the Organization should have one vote in the General Assembly.

*(From Ch. V, Sec. C, Par. 1)*

2. Important decisions of the General Assembly, including recommendations with respect to the maintenance of international peace and security; election of members of the Security Council; election of members of the Economic and Social Council; admission of members, suspension of the exercise of the rights and privileges of members, and expulsion of members; and budgetary questions, should be made by a two-thirds majority of those present and voting . . .

*(From Ch. V, Sec. C, Par. 2)*

. . . On other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, the decisions of the General Assembly should be made by a simple majority vote.

*(From Ch. V, Sec. C, Par. 2)*

### **Section D. Procedure**

1. The General Assembly should meet in regular annual sessions and in such special sessions as occasion may require.

*(From Ch. V, Sec. D, Par. 1)*

2. The General Assembly should adopt its own rules of procedure and elect its President for each session.

*(Ch. V, Sec. D, Par. 2)*

**Article 22**

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

**CHAPTER V  
THE SECURITY COUNCIL**

**Composition**

**Article 23**

1. The Security Council shall consist of eleven Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect six other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members, however, three shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

**Functions and Powers**

**Article 24**

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.

3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

**Article 25**

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

3. The General Assembly should be empowered to set up such bodies and agencies as it may deem necessary for the performance of its functions.

*(From Ch. V, Sec. D, Par. 3)*

## **CHAPTER VI THE SECURITY COUNCIL**

### **Section A. Composition**

The Security Council should consist of one representative of each of eleven members of the Organization. Representatives of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and, in due course, France, should have permanent seats. The General Assembly should elect six states to fill the non-permanent seats. These six states should be elected for a term of two years, three retiring each year. They should not be immediately eligible for reelection. In the first election of the non-permanent members three should be chosen by the General Assembly for one-year terms and three for two-year terms.

### **Section B. Principal Functions and Powers**

1. In order to ensure prompt and effective action by the Organization, members of the Organization should by the Charter confer on the Security Council primary responsibility for the maintenance of international peace and security and should agree that in carrying out these duties under this responsibility it should act on their behalf.

2. In discharging these duties the Security Council should act in accordance with the purposes and principles of the Organization.

3. The specific powers conferred on the Security Council in order to carry out these duties are laid down in Chapter VIII.

4. All members of the Organization should obligate themselves to accept the decisions of the Security Council and to carry them out in accordance with the provisions of the Charter.

*(From Ch. VI, Sec. B, Par. 4)*

**Article 26**

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

**Voting**

**Article 27**

1. Each member of the Security Council shall have one vote.
2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of seven members.
3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of seven members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting

**Procedure**

**Article 28**

1. The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.
2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.
3. The Security Council may hold meetings at such places other than the seat of the Organization as in its judgment will best facilitate its work.

**Article 29**

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

**Article 30**

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

## **Appendix A—(Continued)—Dumbarton Oaks Proposals**

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5. In order to promote the establishment and maintenance of international peace and security with the least diversion of the world's human and economic resources for armaments, the Security Council, with the assistance of the Military Staff Committee referred to in Chapter VIII, Section B, paragraph 9, should have the responsibility for formulating plans for the establishment of a system of regulation of armaments for submission to the members of the Organization.

*(From Ch. VI, Sec. B, Par. 5)*

### **Section C. Voting**

(NOTE.—The question of voting procedure in the Security Council is still under consideration.)

*(From Ch. VI, Sec. C)*

### **Section D. Procedure**

1. The Security Council should be so organized as to be able to function continuously and each state member of the Security Council should be permanently represented at the headquarters of the Organization. It may hold meetings at such other places as in its judgment may best facilitate its work. There should be periodic meetings at which each state member of the Security Council could if it so desired be represented by a member of the government or some other special representative.

*(From Ch. VI, Sec. D, Par. 1)*

2. The Security Council should be empowered to set up such bodies or agencies as it may deem necessary for the performance of its functions including regional subcommittees of the Military Staff Committee.

*(From Ch. VI, Sec. D, Par. 2)*

3. The Security Council should adopt its own rules of procedure, including the method of selecting its President.

*(From Ch. VI, Sec. D, Par. 3)*

### **Article 31**

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

### **Article 32**

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

## **CHAPTER VI**

### **PACIFIC SETTLEMENT OF DISPUTES**

### **Article 33**

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

### **Article 34**

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

### **Article 35**

1. Any Member of the United Nations may bring any dispute or any situation of the nature referred to in Article 34 to the attention of the Security Council or of the General Assembly.
2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the

4. Any member of the Organization should participate in the discussion of any question brought before the Security Council whenever the Security Council considers that the interests of that member of the Organization are specially affected.

(*From Ch. VI, Sec. D, Par. 4*)

5. Any member of the Organization not having a seat on the Security Council and any state not a member of the Organization, if it is a party to a dispute under consideration by the Security Council, should be invited to participate in the discussion relating to the dispute.

(*From Ch. VI, Sec. D, Par. 5*)

## CHAPTER VIII

### ARRANGEMENTS FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY INCLUDING PREVENTION AND SUPPRESSION OF AGGRESSION

#### **Section A. Pacific Settlement of Disputes**

3. The parties to any dispute the continuance of which is likely to endanger the maintenance of international peace and security should obligate themselves, first of all, to seek a solution by negotiation, mediation, conciliation, arbitration or judicial settlement, or other peaceful means of their own choice. The Security Council should call upon the parties to settle their dispute by such means.

(*From Ch. VIII, Sec. A, Par. 3*)

1. The Security Council should be empowered to investigate any dispute, or any situation which may lead to international friction or give rise to a dispute, in order to determine whether its continuance is likely to endanger the maintenance of international peace and security.

(*From Ch. VIII, Sec. A, Par. 1*)

2. Any state, whether member of the Organization or not, may bring any such dispute or situation to the attention of the General Assembly or of the Security Council.

(*From Ch. VIII, Sec. A, Par. 2*)

dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

**Article 36**

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

**Article 37**

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

**Article 38**

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

**CHAPTER VII**

**ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES  
OF THE PEACE, AND ACTS OF AGGRESSION**

**Article 39**

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

5. The Security Council should be empowered, at any stage of a dispute of the nature referred to in paragraph 3 above, to recommend appropriate procedures or methods of adjustment.

*(From Ch. VIII, Sec. A, Par. 5)*

6. Justiciable disputes should normally be referred to the international court of justice. The Security Council should be empowered to refer to the court, for advice, legal questions connected with other disputes.

*(From Ch. VIII, Sec. A, Par. 6)*

4. If, nevertheless, parties to a dispute of the nature referred to in paragraph 3 above fail to settle it by the means indicated in that paragraph, they should obligate themselves to refer it to the Security Council. The Security Council should in each case decide whether or not the continuance of the particular dispute is in fact likely to endanger the maintenance of international peace and security, and, accordingly, whether the Security Council should deal with the dispute, and, if so, whether it should take action under paragraph 5.

*(From Ch. VIII, Sec. A, Par. 4)*

**Section B. Determination of Threats to the Peace or Acts of Aggression  
and Action With Respect Thereto**

2. In general the Security Council should determine the existence of any threat to the peace, breach of the peace or act of aggression and should make recommendations or decide upon the measures to be taken to maintain or restore peace and security.

*(From Ch. VIII, Sec. B, Par. 2)*

**Article 40**

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

**Article 41**

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

**Article 42**

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

**Article 43**

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

## **Appendix A—(Continued)—Dumbarton Oaks Proposals**

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1. Should the Security Council deem that a failure to settle a dispute in accordance with procedures indicated in paragraph 3 of Section A, or in accordance with its recommendations made under paragraph 5 of Section A, constitutes a threat to the maintenance of international peace and security, it should take any measures necessary for the maintenance of international peace and security in accordance with the purposes and principles of the Organization.

*(From Ch. VIII, Sec. B, Par. 1)*

3. The Security Council should be empowered to determine what diplomatic, economic, or other measures not involving the use of armed force should be employed to give effect to its decisions, and to call upon members of the Organization to apply such measures. Such measures may include complete or partial interruption of rail, sea, air, postal, telegraphic, radio and other means of communication and the severance of diplomatic and economic relations.

*(From Ch. VIII, Sec. B, Par. 3)*

4. Should the Security Council consider such measures to be inadequate, it should be empowered to take such action by air, naval or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade and other operations by air, sea or land forces of members of the Organization.

*(From Ch. VIII, Sec. B, Par. 4)*

5. In order that all members of the Organization should contribute to the maintenance of international peace and security, they should undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements concluded among themselves, armed forces, facilities and assistance necessary for the purpose of maintaining international peace and security. Such agreement or agreements should govern the numbers and types of forces and the nature of the facilities and assistance to be provided. The special agreement or agreements should be negotiated as soon as possible and should in each case be subject to approval by the Security Council and to ratification by the signatory states in accordance with their constitutional processes.

*(From Ch. VIII, Sec. B, Par. 5)*

**Article 44**

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

**Article 45**

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

**Article 46**

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

**Article 47**

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.
2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.
3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.
4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional subcommittees.

6. In order to enable urgent military measures to be taken by the Organization there should be held immediately available by the members of the Organization national air force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action should be determined by the Security Council with the assistance of the Military Staff Committee within the limits laid down in the special agreement or agreements referred to in paragraph 5 above.

*(From Ch. VIII, Sec. B, Par. 6)*

8. Plans for the application of armed force should be made by the Security Council with the assistance of the Military Staff Committee referred to in paragraph 9 below.

*(From Ch. VIII, Sec. B, Par. 8)*

9. There should be established a Military Staff Committee the functions of which should be to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, to the employment and command of forces placed at its disposal, to the regulation of armaments, and to possible disarmament. It should be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. The Committee should be composed of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any member of the Organization not permanently represented on the Committee should be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires that such a state should participate in its work. Questions of command of forces should be worked out subsequently.

*(From Ch. VIII, Sec. B, Par. 9)*

*(See above, Ch. VI, Sec. D, Par. 2)*

**Article 48**

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

**Article 49**

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

**Article 50**

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

**Article 51**

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

**CHAPTER VIII  
REGIONAL ARRANGEMENTS**

**Article 52**

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

## **Appendix A—(Continued)—Dumbarton Oaks Proposals**

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7. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security should be taken by all the members of the Organization in cooperation or by some of them as the Security Council may determine. This undertaking should be carried out by the members of the Organization by their own action and through action of the appropriate specialized organizations and agencies of which they are members.

*(From Ch. VIII, Sec. B, Par. 7)*

10. The members of the Organization should join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

*(From Ch. VIII, Sec. B, Par. 10)*

11. Any state, whether a member of the Organization or not, which finds itself confronted with special economic problems arising from the carrying out of measures which have been decided upon by the Security Council should have the right to consult the Security Council in regard to a solution of those problems

*(From Ch. VIII, Sec. B, Par. 11)*

## **Section C. Regional Arrangements**

1. Nothing in the Charter should preclude the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided such arrangements or agencies and their activities are consistent with the purposes and principles of the Organization. The Security Council should encourage settlement of local disputes through such regional arrangements or by such regional agencies, either on the initiative of the states concerned or by reference from the Security Council.

*(From Ch. VIII, Sec. C, Par. 1)*

2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.
3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.
4. This Article in no way impairs the application of Articles 34 and 35.

**Article 53**

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.

2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

**Article 54**

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

**CHAPTER IX  
INTERNATIONAL ECONOMIC AND SOCIAL COOPERATION**

**Article 55**

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

2. The Security Council should, where appropriate, utilize such arrangements or agencies for enforcement action under its authority but no enforcement action should be taken under regional arrangements or by regional agencies without the authorization of the Security Council.

*(From Ch. VIII, Sec. C, Par. 2)*

3. The Security Council should at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

*(From Ch. VIII, Sec. C, Par. 3)*

## **CHAPTER IX ARRANGEMENTS FOR INTERNATIONAL ECONOMIC AND SOCIAL COOPERATION**

### **Section A. Purpose and Relationships**

1. With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, the Organization should facilitate solutions of international economic, social and other humanitarian problems and promote respect for human rights and funda-

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
- c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

**Article 56**

All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.

**Article 57**

1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.
2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

**Article 58**

The Organization shall make recommendations for the coordination of the policies and activities of the specialized agencies.

**Article 59**

The Organization shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

**Article 60**

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

## **Appendix A—(Continued)—Dumbarton Oaks Proposals**

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mental freedoms. Responsibility for the discharge of this function should be vested in the General Assembly and, under the authority of the General Assembly, in an Economic and Social Council.

*(From Ch. IX, Sec. A, Par. 1)*

2. The various specialized economic, social and other organizations and agencies would have responsibilities in their respective fields as defined in their statutes. Each such organization or agency should be brought into relationship with the Organization on terms to be determined by agreement between the Economic and Social Council and the appropriate authorities of the specialized organization or agency, subject to approval by the General Assembly.

*(From Ch. IX, Sec. A, Par. 2)*

7. The General Assembly should make recommendations for the coordination of the policies of international economic, social, and other specialized agencies brought into relation with the Organization in accordance with agreements between such agencies and the Organization.

*(Ch. V, Sec. B, Par. 7)*

*.(See above, Ch. V, Sec. B, Par. 7)*

**CHAPTER X**  
**THE ECONOMIC AND SOCIAL COUNCIL**

**Composition**

**Article 61**

1. The Economic and Social Council shall consist of eighteen Members of the United Nations elected by the General Assembly.
2. Subject to the provisions of paragraph 3, six members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.
3. At the first election, eighteen members of the Economic and Social Council shall be chosen. The term of office of six members so chosen shall expire at the end of one year, and of six other members at the end of two years, in accordance with arrangements made by the General Assembly.
4. Each member of the Economic and Social Council shall have one representative.

**Functions and Powers**

**Article 62**

1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned.
2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.
3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.

*(See above, Ch. IV, Art. 17, Par. 3)*

4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

**Article 63**

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.

**Section B. Composition and Voting**

The Economic and Social Council should consist of representatives of eighteen members of the Organization. The states to be represented for this purpose should be elected by the General Assembly for terms of three years.

*(From Ch. IX, Sec. B)*

**Section C. Functions and Powers of the Economic and Social Council**

1. The Economic and Social Council should be empowered:
  - a. to carry out, within the scope of its functions, recommendations of the General Assembly;
  - b. to make recommendations, on its own initiative, with respect to international economic, social and other humanitarian matters;
  - c. to receive and consider reports from the economic, social and other organizations or agencies brought into relationship with the Organization, and to coordinate their activities through consultations with, and recommendations to, such organizations or agencies;

*(From Ch. IX, Sec. C, Par. 1, a, b, c)*

- d. to examine the administrative budgets of such specialized organizations or agencies with a view to making recommendations to the organizations or agencies concerned;

*(From Ch. IX, Sec. C, Par. 1, d)*

*(See above, Ch. IX, Sec. A, Par. 2)*

## **Appendix A—(Continued)—Charter of the United Nations**

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2. It may coordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

### **Article 64**

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.

2. It may communicate its observations on these reports to the General Assembly.

### **Article 65**

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

### **Article 66**

1. The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly.

2. It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of specialized agencies.

3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.

### **Voting**

### **Article 67**

1. Each member of the Economic and Social Council shall have one vote.
2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

## **Appendix A—(Continued)—Dumbarton Oaks Proposals**

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*(See above, Ch. IX, Sec. A, Par. 1, c)*

*(See above, Ch. IX, Sec. C, Par. 1, c)*

- e. to enable the Secretary-General to provide information to the Security Council;
- f. to assist the Security Council upon its request; . . .

*(From Ch. IX, Sec. C, Par. 1, e, f)*

*(See above, Ch. IX, Sec. C, Par. 1, d)*

- g. to perform such other functions within the general scope of its competence as may be assigned to it by the General Assembly.

*(From Ch. IX, Sec. C, Par. 1, g)*

Each such state should have one representative, who should have one vote. Decisions of the Economic and Social Council should be taken by simple majority vote of those present and voting.

*(From Ch. IX, Sec. B)*

**Procedure**

**Article 68**

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

**Article 69**

The Economic and Social Council shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member.

**Article 70**

The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the specialized agencies.

**Article 71**

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.

**Article 72**

1. The Economic and Social Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

**CHAPTER XI**

**DECLARATION REGARDING NON-SELF-GOVERNING TERRITORIES**

**Article 73**

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of inter-

## **Appendix A—(Continued)—Dumbarton Oaks Proposals**

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### **Section D. Organization and Procedure**

1. The Economic and Social Council should set up an economic commission, a social commission, and such other commissions as may be required. These commissions should consist of experts. There should be a permanent staff which should constitute a part of the Secretariat of the Organization.

*(From Ch. IX, Sec. D, Par. 1)*

2. The Economic and Social Council should make suitable arrangements for representatives of the specialized organizations or agencies to participate without vote in its deliberations and in those of the commissions established by it.

*(From Ch. IX, Sec. D, Par. 2)*

3. The Economic and Social Council should adopt its own rules of procedure and the method of selecting its President.

*(From Ch. IX, Sec. D, Par. 3)*

*(No Comparable Text)*

## **Appendix A—(Continued)—Charter of the United Nations**

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national peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

- a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;
- b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;
- c. to further international peace and security;
- d. to promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and
- e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

### **Article 74**

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas must be based on the general principle of good-neighbourliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.

## **CHAPTER XII INTERNATIONAL TRUSTEESHIP SYSTEM**

### **Article 75**

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

### **Article 76**

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

**Appendix A—(Continued)—Dumbarton Oaks Proposals**

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*(No Comparable Text)*

- a. to further international peace and security;
- b. to promote the political, economic, social and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;
- c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and
- d. to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

#### **Article 77**

- 1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:
  - a. territories now held under mandate;
  - b. territories which may be detached from enemy states as a result of the Second World War; and
  - c. territories voluntarily placed under the system by states responsible for their administration.
- 2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

#### **Article 78**

The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

#### **Article 79**

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

#### **Article 80**

- 1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79 and 81, placing each territory under the trustee-

**Appendix A—(Continued)—Dumbarton Oaks Proposals**

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*(No Comparable Text)*

ship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

#### **Article 81**

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

#### **Article 82**

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

#### **Article 83**

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

#### **Article 84**

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligation towards the Security Council undertaken in this regard by the administering authority, as well as for local defense and the maintenance of law and order within the trust territory.

**Appendix A—(Continued)—Dumbarton Oaks Proposals**

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*(No Comparable Text)*

**Article 85**

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

**CHAPTER XIII  
THE TRUSTEESHIP COUNCIL**

**Composition**

**Article 86**

1. The Trusteeship Council shall consist of the following Members of the United Nations:

- a. those Members administering trust territories;
- b. such of those Members mentioned by name in Article 23 as are not administering trust territories; and
- c. as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

**Functions and Powers**

**Article 87**

1. The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

- a. consider reports submitted by the administering authority;
- b. accept petitions and examine them in consultation with the administering authority;
- c. provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and
- d. take these and other actions in conformity with the terms of the trusteeship agreements.

**Article 88**

The Trusteeship Council shall formulate a questionnaire on the political, economic, social and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

**Appendix A—(Continued)—Dumbarton Oaks Proposals**

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*(No Comparable Text)*

**Voting****Article 89**

1. Each member of the Trusteeship Council shall have one vote.
2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

**Procedure****Article 90**

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

**Article 91**

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

## CHAPTER XIV THE INTERNATIONAL COURT OF JUSTICE

**Article 92**

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

**Article 93**

1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.
2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

**Article 94**

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

*(No Comparable Text)*

## CHAPTER VII AN INTERNATIONAL COURT OF JUSTICE

1. There should be an international court of justice which should constitute the principal judicial organ of the Organization.
2. The Court should be constituted and should function in accordance with a statute which should be annexed to and be a part of the Charter of the Organization.
3. The statute of the court of international justice should be either (a) the Statute of the Permanent Court of International Justice, continued in force with such modifications as may be desirable or (b) a new statute in the preparation of which the Statute of the Permanent Court of International Justice should be used as a basis.
4. All members of the Organization should *ipso facto* be parties to the statute of the international court of justice.
5. Conditions under which states not members of the Organization may become parties to the statute of the international court of justice should be determined in each case by the General Assembly upon recommendation of the Security Council.

2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

**Article 95**

Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future

**Article 96**

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

**CHAPTER XV  
THE SECRETARIAT**

**Article 97**

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

**Article 98**

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization

**Article 99**

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

(See above, Ch. VIII, Sec. A, Par. 6)

## CHAPTER X THE SECRETARIAT

1. There should be a Secretariat comprising a Secretary-General and such staff as may be required. The Secretary-General should be the chief administrative officer of the Organization. He shall be elected by the General Assembly, on recommendation of the Security Council, for such term and under such conditions as are specified in the Charter.
2. The Secretary-General should act in that capacity in all meetings of the General Assembly, of the Security Council, and of the Economic and Social Council and should make an annual report to the General Assembly on the work of the Organization.
3. The Secretary-General should have the right to bring to the attention of the Security Council any matter which in his opinion may threaten international peace and security.

**Article 100**

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

**Article 101**

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

**CHAPTER XVI  
MISCELLANEOUS PROVISIONS**

**Article 102**

1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.

2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

**Article 103**

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

**Article 104**

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.

Appendix A—(Continued)—Dumbarton Oaks Proposals

*(No Comparable Text)*

**Article 105**

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

**CHAPTER XVII  
TRANSITIONAL SECURITY ARRANGEMENTS**

**Article 106**

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow, October 30, 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

**Article 107**

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

**CHAPTER XVIII  
AMENDMENTS**

**Article 108**

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council.

*(No Comparable Text)*

## **CHAPTER XII TRANSITIONAL ARRANGEMENTS**

1. Pending the coming into force of the special agreement or agreements referred to in Chapter VIII, Section B, paragraph 5, and in accordance with the provisions of paragraph 5 of the Four-Nation Declaration, signed at Moscow, October 30, 1943, the states parties to that Declaration should consult with one another and as occasion arises with other members of the Organization with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.
  
2. No provision of the Charter should preclude action taken or authorized in relation to enemy states as a result of the present war by the Governments having responsibility for such action.

## **CHAPTER XI AMENDMENTS**

Amendments should come into force for all members of the Organization, when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by the members of the Organization having permanent membership on the Security Council and by a majority of the other members of the Organization.

**Article 109**

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any seven members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations including all the permanent members of the Security Council.

3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.

**CHAPTER XIX  
RATIFICATION AND SIGNATURE**

**Article 110**

1. The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.

2. The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization when he has been appointed.

3. The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of the other signatory states. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory states.

4. The states signatory to the present Charter which ratify it after it has come into force will become original Members of the United Nations on the date of the deposit of their respective ratifications.

**Article 111**

The present Charter, of which the Chinese, French, Russian, English and Spanish texts are equally authentic, shall remain deposited in the archives of

**Appendix A—(Continued)—Dumbarton Oaks Proposals**

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*(No Comparable Text)*

**Appendix A—(Continued)—Charter of the United Nations**

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the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory states.

IN FAITH WHEREOF the representatives of the Governments of the United Nations have signed the present Charter.

DONE at the city of San Francisco the twenty-sixth day of June, one thousand nine hundred and forty-five.

**Appendix A—(Continued)—Dumbarton Oaks Proposals**

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**NOTE**

In addition to the question of voting procedure in the Security Council referred to in Chapter VI, several other questions are still under consideration.

**WASHINGTON, D. C.**  
*October 7, 1944*

# KEY TO COMPARISON OF DUMBARTON OAKS PROPOSALS AND THE CHARTER OF THE UNITED NATIONS

DUMBARTON OAKS PROPOSALS	CHARTER
Preliminary paragraph	PREAMBLE
<b>Chapter I</b>	<b>Chapter I</b>
Para. 1	Art. 1, Para. 1
Para. 2	Art. 1, Para. 2
Para. 3	Art. 1, Para. 3
Para. 4	Art. 1, Para. 4
<b>Chapter II</b>	<b>Chapter I</b>
Para. 1	Art. 2, Para. 1
Para. 2	Art. 2, Para. 2
Para. 3	Art. 2, Para. 3
Para. 4	Art. 2, Para. 4
Para. 5	Art. 2, Para. 5
Para. 6	Art. 2, Para. 5
Unnumbered Para.	Art. 2, Para. 6
<b>Chapter III</b>	<b>Chapter II</b>
Para. 1	Art. 4, Para. 1
No comparable text	Art. 3
<b>Chapter IV</b>	<b>Chapter III</b>
Para. 1	Art. 7, Para. 1
Para. 2	Art. 7, Para. 2
No comparable text	Art. 8
<b>Chapter V</b>	
Section A	CH. IV, Art. 9
Section B	
Para. 1	CH. IV, Arts. 10 and 11; Art. 12, Para. 1
Para. 2	CH. II, Art. 4, Para. 2
Para. 3	CH. II, Arts. 5 and 6
Para. 4	CH. V, Art. 23, Para. 1; CH. X, Art. 61; Para. 1; CH. XV, Art. 97; and Art. 8 of the Statute of the International Court of Justice
Para. 5	CH. IV, Art. 17, Paras. 1 and 2
Para. 6	CH. IV, Art. 13, Para. 1, and Art. 14

Para. 7	CH. IX, Arts. 58 and 60
Para. 8	CH. IV, Art. 15
<b>Section C</b>	
Para. 1	CH. IV, Art. 18, Para. 1
Para. 2	CH. IV, Art 18, Paras. 2 and 3
<b>Section D</b>	
Para. 1	CH. IV, Art. 20
Para. 2	CH. IV, Art. 21
Para. 3	CH. IV, Art. 22
No comparable text	CH. IV, Art. 12, Para. 2; Art. 13, Para. 2; Arts. 16 and 19
<b>Chapter VI</b>	<b>Chapter V</b>
Section A	Art. 23
Section B	
Para. 1	Art. 24, Para. 1
Para. 2	Art. 24, Para. 2
Para. 3	Art. 24, Para. 2
Para. 4	Art. 25
Para. 5	Art. 26
No comparable text	Art. 24, Para. 3
<b>Section C</b>	
(Yalta voting formula)	Art. 27
<b>Section D</b>	
Para. 1	Art. 28
Para. 2	Art. 29
Para. 3	Art. 30
Para. 4	Art. 31
Para. 5	Art. 32
<b>Chapter VII</b>	<b>Chapter XIV</b>
Para. 1	Art. 92
Para. 2	Art. 92
Para. 3	Art. 92
Para. 4	Art. 93, Para. 1
Para. 5	Art. 93, Para. 2
No comparable text	Arts. 94, 95 and 96
<b>Chapter VIII</b>	
<b>Section A</b>	
Para. 1	CH. VI, Art. 34
Para. 2	CH. VI, Art. 35
Para. 3	CH. VI, Art. 33
Para. 4	CH. VI, Art. 37
Para. 5	CH. VI, Art. 36, Para. 1

Para. 6	CH. VI, Art. 36, Para. 3; and CH. XIV, Art. 96, Para. 1
Para. 7	CH. I, Art. 2, Para. 7
No comparable text	CH. VI, Art. 36, Para. 2; and Art. 38
Section B	<b>Chapter VII</b>
Para. 1	Art. 40
Para. 2	Art. 39
Para. 3	Art. 41
Para. 4	Art. 42
Para. 5	Art. 43
Para. 6	Art. 45
Para. 7	Art. 48
Para. 8	Art. 46
Para. 9	Art. 47
Para. 10	Art. 49
Para. 11	Art. 50
No comparable text	Arts. 44 and 51

Section C	
Para. 1	
Para. 2	
Para. 3	
No comparable text	

## Chapter IX

Section A	
Para. 1	
Para. 2	
No comparable text	

## Section B

Section C	
Para. 1	
a.	CH. IX, Art. 66, Para. 1
b.	CH. X, Art. 62, Paras. 1 and 2
c	CH. X, Art. 64, Para. 1
d.	CH. IV, Art. 17, Para. 3
e	CH. X, Art. 65
f.	CH. X, Art. 65
g.	CH. X, Art. 66, Para. 3

Section D	
Para. 1	
Para. 2	
Para. 3	

<b>Chapter VIII</b>	
Para. 1	Art. 52, Paras. 1 and 3
Para. 1	Art. 53, Para. 1
	Art. 54
	Art. 52, Paras. 2 and 4; and
	Art. 53, Para. 2

## Chapter IX

Arts. 55 and 60	
Art. 57	
Arts. 56 and 59	

## Chapter X

Art. 61, Paras. 1 and 2; and	
Art. 67	

CH. IX, Art. 66, Para. 1	
CH. X, Art. 62, Paras. 1 and 2	
CH. X, Art. 64, Para. 1	
CH. IV, Art. 17, Para. 3	
CH. X, Art. 65	
CH. X, Art. 65	
CH. X, Art. 66, Para. 3	

## Chapter X

Art. 68	
Art. 70	
Art. 72	

No comparable text	Art. 61, Paras. 3 and 4; Art. 62, Paras. 3 and 4; Art. 63; Art. 64, Para. 2; Art. 66, Para. 2; Art. 69; and Art. 71
<b>Chapter X</b>	<b>Chapter XV</b>
Para. 1	Art. 97
Para. 2	Art. 98
Para. 3	Art. 99
No comparable text	Arts. 100 and 101
<b>Chapter XI</b>	<b>Chapter XVIII, Art. 108</b>
No comparable text	Art. 109
<b>Chapter XII</b>	<b>Chapter XVII</b>
Para. 1	Art. 106
Para. 2	Art. 107
No comparable text	<b>Chapter XI</b>
No comparable text	<b>Chapter XII</b>
No comparable text	<b>Chapter XIII</b>
No comparable text	<b>Chapter XVI</b>
No comparable text	<b>Chapter XIX</b>

## **Appendix B**

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### **STATUTE OF THE INTERNATIONAL COURT OF JUSTICE**

#### **Article 1**

The International Court of Justice established by the Charter of the United Nations as the principal judicial organ of the United Nations shall be constituted and shall function in accordance with the provisions of the present Statute.

#### **CHAPTER I—ORGANIZATION OF THE COURT**

#### **Article 2**

The Court shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law.

#### **Article 3**

1. The Court shall consist of fifteen members, no two of whom may be nationals of the same state.
2. A person who for the purposes of membership in the Court could be regarded as a national of more than one state shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

#### **Article 4**

1. The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration, in accordance with the following provisions.
2. In the case of Members of the United Nations not represented in the Permanent Court of Arbitration, candidates shall be nominated by national groups appointed for this purpose by their governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Article 44 of the Convention of The Hague of 1907 for the pacific settlement of international disputes.
3. The conditions under which a state which is a party to the present Statute but is not a Member of the United Nations may participate in electing the members of the Court shall, in the absence of a special agreement, be laid down by the General Assembly upon recommendation of the Security Council.

#### **Article 5**

1. At least three months before the date of the election, the Secretary-

## **Appendix B—(Continued)—Statute of the International Court of Justice**

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General of the United Nations shall address a written request to the members of the Permanent Court of Arbitration belonging to the states which are parties to the present Statute, and to the members of the national groups appointed under Article 4, paragraph 2, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.

2. No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case may the number of candidates nominated by a group be more than double the number of seats to be filled.

### **Article 6**

Before making these nominations, each national group is recommended to consult its highest court of justice, its legal faculties and schools of law, and its national academies and national sections of international academies devoted to the study of law.

### **Article 7**

1. The Secretary-General shall prepare a list in alphabetical order of all the persons thus nominated. Save as provided in Article 12, paragraph 2, these shall be the only persons eligible.

2. The Secretary-General shall submit this list to the General Assembly and to the Security Council.

### **Article 8**

The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court.

### **Article 9**

At every election, the electors shall bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

### **Article 10**

1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected.

2. Any vote of the Security Council, whether for the election of judges or for the appointment of members of the conference envisaged in Article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council.

3. In the event of more than one national of the same state obtaining an absolute majority of the votes both of the General Assembly and of the Security Council, the eldest of these only shall be considered as elected.

**Article 11**

If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

**Article 12**

1. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance.

2. If the joint conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Article 7.

3. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council.

4. In the event of an equality of votes among the judges, the eldest judge shall have a casting vote.

**Article 13**

1. The members of the Court shall be elected for nine years and may be re-elected; provided, however, that of the judges elected at the first election, the terms of five judges shall expire at the end of three years and the terms of five more judges shall expire at the end of six years.

2. The judges whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General immediately after the first election has been completed.

3. The members of the Court shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

4. In the case of the resignation of a member of the Court, the resignation shall be addressed to the President of the Court for transmission to the Secretary-General. This last notification makes the place vacant.

**Article 14**

Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Secretary-General shall, within one month of the occurrence of the vacancy, proceed to issue the invitations

## **Appendix B—(Continued)—Statute of the International Court of Justice**

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provided for in Article 5, and the date of the election shall be fixed by the Security Council.

### **Article 15**

A member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

### **Article 16**

1. No member of the Court may exercise any political or administrative function, or engage in any other occupation of a professional nature.
2. Any doubt on this point shall be settled by the decision of the Court.

### **Article 17**

1. No member of the Court may act as agent, counsel, or advocate in any case.
2. No member may participate in the decision of any case in which he has previously taken part as agent, counsel, or advocate for one of the parties, or as a member of a national or international court, or of a commission of enquiry, or in any other capacity.
3. Any doubt on this point shall be settled by the decision of the Court.

### **Article 18**

1. No member of the Court can be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions.
2. Formal notification thereof shall be made to the Secretary-General by the Registrar.
3. This notification makes the place vacant.

### **Article 19**

The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

### **Article 20**

Every member of the Court shall, before taking up his duties, make a solemn declaration in open court that he will exercise his powers impartially and conscientiously.

### **Article 21**

1. The Court shall elect its President and Vice-President for three years; they may be re-elected.
2. The Court shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

### **Article 22**

1. The seat of the Court shall be established at The Hague. This, however,

shall not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable.

2. The President and the Registrar shall reside at the seat of the Court.

**Article 23**

1. The Court shall remain permanently in session, except during the judicial vacations, the dates and duration of which shall be fixed by the Court.

2. Members of the Court are entitled to periodic leave, the dates and duration of which shall be fixed by the Court, having in mind the distance between The Hague and the home of each judge.

3. Members of the Court shall be bound, unless they are on leave or prevented from attending by illness or other serious reasons duly explained to the President, to hold themselves permanently at the disposal of the Court.

**Article 24**

1. If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the President.

2. If the President considers that for some special reason one of the members of the Court should not sit in a particular case, he shall give him notice accordingly.

3. If in any such case the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

**Article 25**

1. The full Court shall sit except when it is expressly provided otherwise in the present Statute.

2. Subject to the condition that the number of judges available to constitute the Court is not thereby reduced below eleven, the Rules of the Court may provide for allowing one or more judges, according to circumstances and in rotation, to be dispensed from sitting.

3. A quorum of nine judges shall suffice to constitute the Court.

**Article 26**

1. The Court may from time to time form one or more chambers, composed of three or more judges as the Court may determine, for dealing with particular categories of cases; for example, labor cases and cases relating to transit and communications.

2. The Court may at any time form a chamber for dealing with a particular case. The number of judges to constitute such a chamber shall be determined by the Court with the approval of the parties.

3. Cases shall be heard and determined by the chambers provided for in this Article if the parties so request.

**Article 27**

A judgment given by any of the chambers provided for in Articles 26 and 29 shall be considered as rendered by the Court.

**Article 28**

The chambers provided for in Articles 26 and 29 may, with the consent of the parties, sit and exercise their functions elsewhere than at The Hague.

**Article 29**

With a view to the speedy despatch of business, the Court shall form annually a chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. In addition, two judges shall be selected for the purpose of replacing judges who find it impossible to sit.

**Article 30**

1. The Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure.

2. The Rules of the Court may provide for assessors to sit with the Court or with any of its chambers, without the right to vote.

**Article 31**

1. Judges of the nationality of each of the parties shall retain their right to sit in the case before the Court.

2. If the Court includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge. Such person shall be chosen preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5.

3. If the Court includes upon the Bench no judge of the nationality of the parties, each of these parties may proceed to choose a judge as provided in paragraph 2 of this Article.

4. The provisions of this Article shall apply to the case of Articles 26 and 29. In such cases, the President shall request one or, if necessary, two of the members of the Court forming the chamber to give place to the members of the Court of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the judges specially chosen by the parties.

5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point shall be settled by the decision of the Court.

6. Judges chosen as laid down in paragraphs 2, 3, and 4 of this Article shall fulfil the conditions required by Articles 2, 17 (paragraph 2), 20, and 24 of the present Statute. They shall take part in the decision on terms of complete equality with their colleagues.

**Article 32**

1. Each member of the Court shall receive an annual salary.
2. The President shall receive a special annual allowance.
3. The Vice-President shall receive a special allowance for every day on which he acts as President.
4. The judges chosen under Article 31, other than members of the Court, shall receive compensation for each day on which they exercise their functions.
5. These salaries, allowances, and compensation shall be fixed by the General Assembly. They may not be decreased during the term of office.
6. The salary of the Registrar shall be fixed by the General Assembly on the proposal of the Court.
7. Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to members of the Court and to the Registrar, and the conditions under which members of the Court and the Registrar shall have their traveling expenses refunded.
8. The above salaries, allowances, and compensation shall be free of all taxation.

**Article 33**

The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly.

**CHAPTER II—COMPETENCE OF THE COURT**

**Article 34**

1. Only states may be parties in cases before the Court.
2. The Court, subject to and in conformity with its Rules, may request of public international organizations information relevant to cases before it, and shall receive such information presented by such organizations on their own initiative.
3. Whenever the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder is in question in a case before the Court, the Registrar shall so notify the public international organization concerned and shall communicate to it copies of all the written proceedings.

**Article 35**

1. The Court shall be open to the states parties to the present Statute.
2. The conditions under which the Court shall be open to other states shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.
3. When a state which is not a Member of the United Nations is a party to a case, the Court shall fix the amount which that party is to contribute towards

## **Appendix B—(Continued)—Statute of the International Court of Justice**

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the expenses of the Court. This provision shall not apply if such state is bearing a share of the expenses of the Court.

### **Article 36**

1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.
2. The states parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:
  - a. the interpretation of a treaty;
  - b. any question of international law;
  - c. the existence of any fact which, if established, would constitute a breach of an international obligation;
  - d. the nature or extent of the reparation to be made for the breach of an international obligation.
3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain states, or for a certain time.
4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.
5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms.
6. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

### **Article 37**

Whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the Permanent Court of International Justice, the matter shall, as between the parties to the present Statute, be referred to the International Court of Justice.

### **Article 38**

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:
  - a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
  - b. international custom, as evidence of a general practice accepted as law;

- c. the general principles of law recognized by civilized nations;
  - d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.
2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

### **CHAPTER III—PROCEDURE**

#### **Article 39**

1. The official languages of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment shall be delivered in French. If the parties agree that the case shall be conducted in English, the judgment shall be delivered in English.
2. In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court shall be given in French and English. In this case the Court shall at the same time determine which of the two texts shall be considered as authoritative.
3. The Court shall, at the request of any party, authorize a language other than French or English to be used by that party.

#### **Article 40**

1. Cases are brought before the Court, as the case may be, either by the notification of the special agreement or by a written application addressed to the Registrar. In either case the subject of the dispute and the parties shall be indicated.
2. The Registrar shall forthwith communicate the application to all concerned.
3. He shall also notify the Members of the United Nations through the Secretary-General, and also any other states entitled to appear before the Court.

#### **Article 41**

1. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.
2. Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council.

#### **Article 42**

1. The parties shall be represented by agents.
2. They may have the assistance of counsel or advocates before the Court.
3. The agents, counsel, and advocates of parties before the Court shall

## **Appendix B—(Continued)—Statute of the International Court of Justice**

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enjoy the privileges and immunities necessary to the independent exercise of their duties.

### **Article 43**

1. The procedure shall consist of two parts: written and oral.
2. The written proceedings shall consist of the communication to the Court and to the parties of memorials, counter-memorials and, if necessary, replies; also all papers and documents in support.
3. These communications shall be made through the Registrar, in the order and within the time fixed by the Court.
4. A certified copy of every document produced by one party shall be communicated to the other party.
5. The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel, and advocates.

### **Article 44**

1. For the service of all notices upon persons other than the agents, counsel, and advocates, the Court shall apply direct to the government of the state upon whose territory the notice has to be served.
2. The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

### **Article 45**

The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President; if neither is able to preside, the senior judge present shall preside.

### **Article 46**

The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted.

### **Article 47**

1. Minutes shall be made at each hearing and signed by the Registrar and the President.
2. These minutes alone shall be authentic.

### **Article 48**

The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

### **Article 49**

The Court may, even before the hearing begins, call upon the agents to produce any document or to supply any explanations. Formal note shall be taken of any refusal.

**Article 50**

The Court may, at any time, entrust any individual, body, bureau, commission, or other organization that it may select, with the task of carrying out an enquiry or giving an expert opinion.

**Article 51**

During the hearing any relevant questions are to be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure referred to in Article 30.

**Article 52**

After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

**Article 53**

1. Whenever one of the parties does not appear before the Court, or fails to defend its case, the other party may call upon the Court to decide in favor of its claim.
2. The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles 36 and 37, but also that the claim is well founded in fact and law.

**Article 54**

1. When, subject to the control of the Court, the agents, counsel, and advocates have completed their presentation of the case, the President shall declare the hearing closed.
2. The Court shall withdraw to consider the judgment.
3. The deliberations of the Court shall take place in private and remain secret.

**Article 55**

1. All questions shall be decided by a majority of the judges present.
2. In the event of an equality of votes, the President or the judge who acts in his place shall have a casting vote.

**Article 56**

1. The judgment shall state the reasons on which it is based.
2. It shall contain the names of the judges who have taken part in the decision.

**Article 57**

If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

**Article 58**

The judgment shall be signed by the President and by the Registrar. It shall be read in open court, due notice having been given to the agents.

**Article 59**

The decision of the Court has no binding force except between the parties and in respect of that particular case.

**Article 60**

The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

**Article 61**

1. An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.

2. The proceedings for revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

3. The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

4. The application for revision must be made at latest within six months of the discovery of the new fact.

5. No application for revision may be made after the lapse of ten years from the date of the judgment.

**Article 62**

1. Should a state consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene.

2. It shall be for the Court to decide upon this request.

**Article 63**

1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notify all such states forthwith.

2. Every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon it.

**Article 64**

Unless otherwise decided by the Court, each party shall bear its own costs.

**CHAPTER IV—ADVISORY OPINIONS**

**Article 65**

1. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.

2. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request containing an exact statement of the question upon which an opinion is required, and accompanied by all documents likely to throw light upon the question.

**Article 66**

1. The Registrar shall forthwith give notice of the request for an advisory opinion to all states entitled to appear before the Court.

2. The Registrar shall also, by means of a special and direct communication, notify any state entitled to appear before the Court or international organization considered by the Court, or, should it not be sitting, by the President, as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

3. Should any such state entitled to appear before the Court have failed to receive the special communication referred to in paragraph 2 of this Article, such state may express a desire to submit a written statement or to be heard; and the Court will decide.

4. States and organizations having presented written or oral statements or both shall be permitted to comment on the statements made by other states or organizations in the form, to the extent, and within the time limits which the Court, or, should it not be sitting, the President, shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to states and organizations having submitted similar statements.

**Article 67**

The Court shall deliver its advisory opinions in open court, notice having been given to the Secretary-General and to the representatives of Members of the United Nations, of other states and of international organizations immediately concerned.

**Article 68**

In the exercise of its advisory functions the Court shall further be guided by the provisions of the present Statute which apply in contentious cases to the extent to which it recognizes them to be applicable.

**CHAPTER V—AMENDMENT**

**Article 69**

Amendments to the present Statute shall be effected by the same procedure as is provided by the Charter of the United Nations for amendments to that Charter, subject however to any provisions which the General Assembly upon recommendation of the Security Council may adopt concerning the participation of states which are parties to the present Statute but are not Members of the United Nations.

**Article 70**

The Court shall have power to propose such amendments to the present Statute as it may deem necessary, through written communications to the Secretary-General, for consideration in conformity with the provisions of Article 69.

## Appendix C

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### INTERIM ARRANGEMENTS CONCLUDED BY THE GOVERNMENTS REPRESENTED AT THE UNITED NATIONS CONFERENCE ON INTERNATIONAL ORGANIZATION

THE GOVERNMENTS represented at the United Nations Conference on International Organization in the city of San Francisco,

Having determined that an international organization to be known as the United Nations shall be established,

Having this day signed the Charter of the United Nations, and

Having decided that, pending the coming into force of the Charter and the establishment of the United Nations as provided in the Charter, a Preparatory Commission of the United Nations should be established for the performance of certain functions and duties,

AGREE as follows:

1. There is hereby established a Preparatory Commission of the United Nations for the purpose of making provisional arrangements for the first sessions of the General Assembly, the Security Council, the Economic and Social Council, and the Trusteeship Council, for the establishment of the Secretariat, and for the convening of the International Court of Justice.

2. The Commission shall consist of one representative from each government signatory to the Charter. The Commission shall establish its own rules of procedure. The functions and powers of the Commission, when the Commission is not in session, shall be exercised by an Executive Committee composed of the representatives of those governments now represented on the Executive Committee of the Conference. The Executive Committee shall appoint such committees as may be necessary to facilitate its work, and shall make use of persons of special knowledge and experience.

3. The Commission shall be assisted by an Executive Secretary, who shall exercise such powers and perform such duties as the Commission may determine, and by such staff as may be required. This staff shall be composed so far as possible of officials appointed for this purpose by the participating governments on the invitation of the Executive Secretary.

4. The Commission shall:

- (a) Convoke the General Assembly in its first session;
- (b) Prepare the provisional agenda for the first sessions of the principal organs of the Organization, and prepare documents and recommendations relating to all matters on these agenda;
- (c) Formulate recommendations concerning the possible transfer of certain functions, activities, and assets of the League of Nations which it may be considered desirable for the new Organization to take over on terms to be arranged;

## **Appendix C—(Continued)—Interim Arrangements**

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- (d) Examine the problems involved in the establishment of the relationship between specialized intergovernmental organizations and agencies and the Organization;
- (e) Issue invitations for the nomination of candidates for the International Court of Justice in accordance with the provisions of the Statute of the Court;
- (f) Prepare recommendations concerning arrangements for the Secretariat of the Organization; and
- (g) Make studies and prepare recommendations concerning the location of the permanent headquarters of the Organization.

5. The expenses incurred by the Commission and the expenses incidental to the convening of the first meeting of the General Assembly shall be met by the Government of the United Kingdom of Great Britain and Northern Ireland or, if the Commission so requests, shared by other governments. All such advances from governments shall be deductible from their first contributions to the Organization.

6. The seat of the Commission shall be located in London. The Commission shall hold its first meeting in San Francisco immediately after the conclusion of the United Nations Conference on International Organization. The Executive Committee shall call the Commission into session again as soon as possible after the Charter of the Organization comes into effect and whenever subsequently it considers such a session desirable.

7. The Commission shall cease to exist upon the election of the Secretary-General of the Organization, at which time its property and records shall be transferred to the Organization.

8. The Government of the United States of America shall be the temporary depositary and shall have custody of the original document embodying these interim arrangements in the five languages in which it is signed. Duly certified copies thereof shall be transmitted to the governments of the signatory states. The Government of the United States of America shall transfer the original to the Executive Secretary on his appointment.

9. This document shall be effective as from this date, and shall remain open for signature by the states entitled to be the original Members of the United Nations until the Commission is dissolved in accordance with paragraph 7.

**IN FAITH WHEREOF**, the undersigned representatives having been duly authorized for that purpose, sign this document in the English, French, Chinese, Russian, and Spanish languages, all texts being of equal authenticity.

**DONE** at the city of San Francisco, this twenty-sixth day of June, one thousand nine hundred and forty-five.

## Appendix D

### THE UNITED NATIONS CONFERENCE ON INTERNATIONAL ORGANIZATION

#### LIST OF DELEGATIONS

Argentina	Iraq
Australia	Lebanon
Belgium	Liberia
Bolivia	Luxembourg
Brazil	Mexico
Byelorussian Soviet Socialist Republic	Netherlands
Canada	New Zealand
Chile	Nicaragua
China	Norway
Colombia	Panama
Costa Rica	Paraguay
Cuba	Peru
Czechoslovakia	Philippine Commonwealth
Denmark	Saudi Arabia
Dominican Republic	Syria
Ecuador	Turkey
Egypt	Ukrainian Soviet Socialist Republic
El Salvador	Union of South Africa
Ethiopia	Union of Soviet Socialist Republics
France	United Kingdom
Greece	United States of America
Guatemala	Uruguay
Haiti	Venezuela
Honduras	Yugoslavia
India	
Iran	

#### UNITED STATES DELEGATION

##### Delegates

Edward R. Stettinius, Jr., *Secretary of State; Chairman*  
Cordell Hull, *Senior Adviser*  
Tom Connally, *United States Senate*  
Arthur H. Vandenberg, *United States Senate*  
Sol Bloom, *House of Representatives*  
Charles A. Eaton, *House of Representatives*  
Commander Harold E. Stassen, *U.S.N.R.*  
Dean Virginia C. Gildersleeve

## Appendix D—(Continued)

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### Advisers

#### *Department of State*

James Clement Dunn, *Assistant Secretary of State*

Green H. Hackworth, *Legal Adviser*

Leo Pasvolsky, *Special Assistant to the Secretary of State for International Organization and Security Affairs*

Isaiah Bowman, *Special Adviser to the Secretary of State*

Hamilton Fish Armstrong, *Special Adviser to the Secretary of State*

John Foster Dulles

Charles W. Taussig, *Chairman, United States Section, Anglo-American Caribbean Commission*

Avra M. Warren, *Director, Office of American Republic Affairs*

John D. Hickerson, *Deputy Director, Office of European Affairs*

Harley A. Notter, *Adviser, Office of Special Political Affairs*

Leroy D. Stinebower, *Deputy Director, Office of International Trade Policy*

#### *Treasury Department*

Harry White, *Assistant Secretary of the Treasury*

#### *War Department*

John J. McCloy, *Assistant Secretary of War*

Lieutenant General Stanley D. Embick, *Joint Strategic Survey Committee*

Major General Muir S. Fairchild, *Joint Strategic Survey Committee*

Major General R. L. Walsh, *Special Assistant to the Commanding General, Army Air Forces*

Brigadier General Kenner Hertford, *Chief of Pan American Group, Operations Division*

#### *Department of Justice*

Charles Fahy, *Solicitor General of the United States*

#### *Navy Department*

Artemus Gates, *Assistant Secretary of the Navy*

Admiral Arthur J. Hepburn, *Chairman, General Board*

Vice Admiral Russell Willson, *Joint Strategic Survey Committee*

Rear Admiral Harold C. Train, *Joint Post-War Committee*

R. Keith Kane, *Special Assistant to the Secretary of the Navy*

#### *Department of the Interior*

Abe Fortas, *Under Secretary of the Interior*

#### *Department of Agriculture*

Charles F. Brannan, *Assistant Secretary of Agriculture*

#### *Department of Commerce*

Frank A. Waring, *Special Assistant to the Secretary of Commerce*

## **Appendix D—(Continued)**

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### *Department of Labor*

Daniel W. Tracy, *Assistant Secretary of Labor*

*Foreign Economic Administration*

Oscar Cox, *Deputy Administrator*

*Bureau of the Budget*

Donald C. Stone, *Deputy Director*

In addition, valuable assistance was rendered to the Delegation by the Honorable Pat McCarran, United States Senator from Nevada, and by the Honorable Louis C. Rabaut, Member of Congress from Michigan and the Honorable Karl Stefan, Member of Congress from Nebraska, who, at the instance of the Department of State, went to San Francisco to advise and consult with the Delegation with respect to certain fiscal problems in connection with the establishment and maintenance of the United Nations.

### **Assistant Secretaries of State Assigned to the Conference**

Julius C. Holmes

Archibald MacLeish

Nelson A. Rockefeller

### **Office of War Information Attaché to the Delegation**

Arthur Sweetser, *Deputy Director, Office of War Information*

### **Special Assistants to the Chairman**

Robert J. Lynch, *Special Assistant to the Secretary of State*

G. Hayden Raynor, *Special Assistant to the Secretary of State*

Charles W. Yost, *Executive Secretary, Secretary of State's Staff Committee and Coordinating Committee*

John D. East, *Special Consultant*

Silliman Evans

Adlai Stevenson, *Special Assistant to the Secretary of State*

Mrs. Nancy Davis, *Assistant to Mr. Yost; Acting Information Officer, Office of Assistant Secretary of State Clayton*

### **Assistants to the Chairman**

Wilder Foote, *Assistant to the Secretary of State*

Louis Hyde, *Assistant to the Secretary of State*

Charles Noyes, *Assistant to the Secretary of State*

Lee Blanchard, *Assistant to the Secretary of State*

Frank Duvall, *Watch Officer, Office of the Secretary of State*

Vincent J. Monti, *Watch Officer, Office of the Secretary of State*

Alfred T. Wellborn, *Watch Officer, Office of the Secretary of State*

## Appendix D—(Continued)

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### Secretary General

Durward V. Sandifer, *Chief, Division of International Organization Affairs, Department of State*

Benjamin Gerig, *Deputy; Chief, Division of Dependent Area Affairs; Associate Chief, Division of International Organization Affairs, Department of State*

### Special Assistants to the Secretary General

Miss Dorothy Fosdick, *Division of International Organization Affairs, Department of State*

Edward G. Miller, Jr., *Special Assistant to Assistant Secretary of State Acheson*  
J. Langdon Ward, *Administrative Officer, Office of the Secretary of State*  
Edward Parrack

### Political and Liaison Officers

#### Europe

Theodore C. Achilles, *Chief, Division of British Commonwealth Affairs, Department of State*

Charles E. Bohlen, *Assistant to the Secretary and White House Liaison Officer, Department of State*

Hugh S. Cumming, Jr., *Chief, Division of Northern European Affairs, Department of State*

Llewellyn E. Thompson, *Acting Chief, Division of Eastern European Affairs, Department of State*

Woodruff Wallner, *Administrative Assistant, Division of Western European Affairs, Department of State*

#### Far East

Joseph W. Ballantine, *Director, Office of Far Eastern Affairs, Department of State*

John Carter Vincent, *Chief, Division of Chinese Affairs, Department of State*  
Edwin Stanton, *Office of Far Eastern Affairs, Department of State*

#### Near East and Africa

George V. Allen, *Deputy Director, Office of Near Eastern and African Affairs, Department of State*

Paul H. Alling, *Deputy Director, Office of Near Eastern and African Affairs, Department of State*

Henry S. Villard, *Chief, Division of African Affairs, Department of State*

Foy D. Kohler, *Assistant Chief, Division of Near Eastern Affairs, Department of State*

#### Latin America

John E. Lockwood, *Deputy Director, Office of American Republic Affairs, Department of State*

## Appendix D—(Continued)

John M. Cabot, *Chief, Division of Caribbean and Central American Affairs, Department of State*

H. Clinton Reed, *Department of State*

John McClintock, *Special Assistant to Assistant Secretary of State Rockefeller*

Lt. Atwood Collins III, *Assistant to Mr. Avra M. Warren*

Lt. George S. Knight, *Assistant to Mr. Avra M. Warren*

### Chief Technical Experts

Durward V. Sandifer, *Chief, Division of International Organization Affairs, Department of State*

Benjamin Gerig, *Chief, Division of Dependent Area Affairs; Associate Chief, Division of International Organization Affairs, Department of State.*

Joseph E. Johnson, *Acting Chief, Division of International Security Affairs, Department of State*

### Technical Experts

Robert W. Hartley, *Office of the Special Assistant to the Secretary of State for International Organization and Security Affairs*

Miss Marjorie M. Whiteman, *Assistant Legal Adviser, Department of State*

Philip C. Jessup, *Assistant on Judicial Organization*

Carlton Savage, *Assistant to the Secretary of State*

Bryn J. Hovde, *Chief, Division of Cultural Cooperation, Department of State*

Otis E. Mulliken, *Chief, Division of International Labor, Social and Health Affairs, Department of State*

Donald C. Blaisdell, *Associate Chief, Division of International Security Affairs, Department of State*

Ralph Bunche, *Associate Chief, Division of Dependent Area Affairs, Department of State*

Walter M. Kotschnig, *Associate Chief, Division of International Organization Affairs, Department of State*

Lawrence Preuss, *Associate Chief, Division of International Organization Affairs, Department of State*

William Sanders, *Associate Chief, Division of International Organization Affairs, Department of State*

John Parke Young, *Adviser on Foreign Investment, Division of Foreign Economic Development, Department of State*

Andrew W. Cordier, *Division of International Security Affairs, Department of State*

Clyde Eagleton, *Division of International Organization Affairs, Department of State*

Harry N. Howard, *Division of International Organization Affairs, Department of State*

## **Appendix D—(Continued)**

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- Henry Reiff, *Division of International Organization Affairs, Department of State*
- John D. Tomlinson, *Division of International Organization Affairs, Department of State*
- J. Wesley Adams, Jr., *Division of International Security Affairs, Department of State*
- Mrs. Esther Brunauer, *Division of International Organization Affairs, Department of State*
- Edward H. Buehrig, *Division of International Security Affairs, Department of State*
- Miss Dorothy Fosdick, *Division of International Organization Affairs, Department of State*
- Miss Marcia Maylott, *Division of International Organization Affairs, Department of State*
- Mrs. Alice M. McDiarmid, *Division of International Organization Affairs, Department of State*
- Warren Roberts, *Division of International Security Affairs, Department of State*
- Lieutenant Bernard Brodie, U.S.N.R., *Division of International Security Affairs, Department of State*
- Commodore T. P. Jeter, U.S.N., *Joint Post-War Committee, Joint Chiefs of Staff*
- Colonel Shaler Ladd, U.S.M.C.
- Colonel C. H. Bonesteel, III, *War Department General Staff*
- Colonel P. M. Hamilton, *Joint Post-War Committee, Joint Chiefs of Staff*
- Colonel W. A. McRae, *Army Air Forces*
- Lieutenant Frederick Holdsworth, Jr., U.S.N.R., *with Joint Strategic Survey Committee*

### **Aides and Assistants**

- James W. Angell
- W. Tappley Bennett
- Miss Vera Bloom
- Captain A. J. Bolton, U.S.N.
- Boyd Crawford
- Miss Martha Dalrymple
- James Doull
- Charles A. Eaton, Jr
- Major Frederick B. Ehlers, U.S.A.
- Harry Frantz
- Arthur J. Hazes
- Lieutenant T. F. Lambert, U.S.N.R.

## **Appendix D—(Continued)**

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Walter H. C. Lavis  
Lieutenant Mary E. McDonald, U.S.N.R. (W)  
Sam W. Meek  
Cord Meyer, Jr.  
Ensign Stanley Meyer, U.S.N.R.  
Douglas Mode  
Norman Ness  
Captain R. L. Neuberger  
Kenneth Perry  
Lieutenant Commander Elizabeth Reynard, U.S.N.R. (W)  
Benjamin Salzer  
Robert V. Shirley  
Major Davidson Sommers  
Commander Robert H. Thayer, U.S.N.R.  
John Thompson  
Captain William L. Ullman, U.S.A.  
William W. Walker  
Francis Wilcox  
Captain Bennett W. Wright, U.S.N.

### **Press Officer**

Homer M. Byington, Jr., *Executive Assistant to the Special Assistant in Charge of Press Relations, Department of State*  
John C. Pool, *Assistant; Assistant Chief, Division of British Commonwealth Affairs, Department of State*  
James O'Sullivan, *Assistant; Department of State*  
Miss Mary J. Leutzinger, *Assistant; Office of the Special Assistant in Charge of Press Relations, Department of State*  
Bromley Smith, *Assistant; Foreign Service Officer, Department of State*

### **Protocol Officer**

Vinton Chapin, *Department of State*

### **Public Liaison Officer**

John S. Dickey, *Director, Office of Public Affairs, Department of State*  
Richard W. Morin, *Deputy; Deputy Director, Office of Public Affairs, Department of State*  
Francis Russell, *Chief, Division of Public Liaison, Department of State*  
Dewitt C. Poole, *Associate*  
*Special Assistants to the Public Liaison Officer*  
Miss Doris Cochrane, *Division of Public Liaison, Department of State*  
Lieutenant Commander Lloyd Dennis, *Division of Public Liaison, Department of State*

## **Appendix D—(Continued)**

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Kingsley W. Hamilton, *Division of British Commonwealth Affairs, Department of State*

August Heckscher

Miss Emily Hickman

S. Shepard Jones, *Assistant Chief, Division of Public Liaison, Department of State*

Mrs. Delia Kuhn, *Division of Public Liaison, Department of State*

Louis Lancaster, *Division of Public Liaison, Department of State*

Mrs. Ruth Bryan Rohde

Mrs. Shirley Savage

James Swihart, *Division of Public Liaison, Department of State*

Chester Williams, *Division of Public Liaison, Department of State*

### **Executive Secretary**

Mrs. Virginia F. Hartley, *Division of International Organization Affairs, Department of State*

Miss M. Kathleen Bell, *Assistant; Office of the Special Assistant to the Secretary of State on International Organization and Security Affairs, Department of State*

### **Correspondence Officer**

George V. Blue, *Division of International Organization Affairs, Department of State*

John Patterson, *Assistant; Division of Public Liaison, Department of State*

Lawrence Finkelstein, *Assistant; Division of Dependent Area Affairs, Department of State*

Miss Rosalind Wright, *Assistant; Division of Public Liaison, Department of State*

### **Special Information Officer**

Miss Suzanne Green, *Division of International Organization Affairs, Department of State*

Miss Jean Turnbull, *Assistant; Division of International Organization Affairs, Department of State*

### **Documents and Security Officer**

Philip M. Burnett, *Division of International Organization Affairs, Department of State*

Miss Elizabeth Driscoll, *Assistant; Division of International Organization Affairs, Department of State*

Miss Betty Gough, *Assistant; Division of International Organization Affairs, Department of State*

Miss Jane Wheeler, *Assistant; Division of Dependent Area Affairs, Department of State*

L. Larry Leonard, *Assistant*

## **Appendix D—(Continued)**

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### *Reference Librarian*

Miss Alice C. Bartlett, *Division of International Organization Affairs, Department of State*

Miss Jeanette E. Muther, *Assistant; Division of International Organization Affairs, Department of State*

### *Language Officer*

Henley C. Hill, *Central Translating Division, Department of State*

Mrs. Marcella Woerheide, *Assistant; Central Translating Division, Department of State*

Johnston V. McCall, *Assistant; Central Translating Division, Department of State*

### *Classification Officer*

Walter H. Anderson, *Division of Central Services, Records Branch, Department of State*

### **Administrative Officer**

Miss Louise White, *Division of International Organization Affairs, Department of State*

Raymond James, *Assistant; Department of State*

Lee Bernard Miller, *Assistant*

### **Director of Transportation**

Lieutenant Commander Donald M. Watson, U.S.N.R.

### **Local Transportation Officer**

Major C. V. Lyle

### **Message Center**

Captain Frank H. de Beaulieu

### **Consultants**

*American Association for the United Nations*

Mr. Clark M. Eichelberger, *Consultant*

Dr. Philip Nash, *Associate*

Miss Margaret Olson, *Associate*

*American Association of University Women*

Dr. Helen D. Reid, *Consultant*

Mrs. Malbone W. Graham, *Associate*

Dr. Aurelia Henry Rheinhardt, *Associate*

*American Bar Association*

Mr. David A. Simmons, *Consultant*

Mr. Mitchell B. Carroll, *Associate*

Mr. William L. Ransom, *Associate*

*American Council on Education*

## Appendix D—(Continued)

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Mr. Herman B. Wells, *Consultant*  
Dr. Howard Wilson, *Associate*  
Miss Helen C. Hurley, *Associate*  
*American Farm Bureau Federation*  
Mr. Edward A. O'Neal, *Consultant*  
Mrs. Charles W. Sewell, *Associate*  
*American Federation of Labor*  
Mr. Robert J. Watt, *Consultant*  
Mr. Robert Byron, *Associate*  
Mr. David Beck, *Associate*  
*American Jewish Committee*  
Mr. Joseph M. Proskauer, *Consultant*  
Mr. Jacob Blaustein, *Associate*  
Mr. Simon Segal, *Associate*  
*American Jewish Conference*  
Mr. Henry Monsky, *Consultant*  
Mr. Louis Lipsky, *Associate*  
Dr. Israel Goldstein, *Associate*  
*American Legion*  
Mr. Edward N. Scheiberling, *Consultant*  
Mr. David Camelon, *Associate*  
*American Section, International Chamber of Commerce*  
Mr. Philip B. Reed, *Consultant*  
Mr. Marshall Dill, *Associate*  
*Americans United for World Organization, Inc.*  
Mr. Hugh Moore, *Consultant*  
Mrs. Doris Warner Leroy, *Associate*  
Mr. Ray Krimm, *Associate*  
*American Veterans Committee*  
Mr. Charles G. Bolté, *Consultant*  
Mr. Alfred Lilienthal, *Associate*  
Mr. Arthur W. Coats, Jr., *Associate*  
*Carnegie Endowment for International Peace*  
Dr. James T. Shotwell, *Consultant*  
Mr. George A. Finch, *Associate*  
*Catholic Association for International Peace*  
Mr. Thomas H. Mahony, *Consultant*  
Miss Catherine Schaeffer, *Associate*  
Father R. A. McGowan, *Associate*  
*Chamber of Commerce of the United States*  
Mr. Harper Sibley, *Consultant*  
Mr. Benjamin H. Namm, *Associate*

## Appendix D—(Continued)

### *Church Peace Union*

Dr. Henry Atkinson, *Consultant*

Miss Margaret Forsyth, *Associate*

Miss Dorothy McConnell, *Associate*

*Congress of Industrial Organizations*

Mr. Philip Murray, *Consultant*

Mr. James Carey, *Associate*

Miss Molly Lynch, *Associate*

*Council on Foreign Relations*

Mr. Thomas K. Finletter, *Consultant*

*Disabled American Veterans of the World War*

Mr. Milton D. Cohn, *Consultant*

Mr. Vivian D. Corbley, *Associate*

### *Farmers Union*

Mr. James G. Patton, *Consultant*

*Federal Council of Churches of Christ in America*

Dr. Walter Van Kirk, *Consultant*

Dr. O. Frederick Nolde, *Associate*

Bishop James C. Baker, *Associate*

*Foreign Policy Association*

General Frank McCoy, *Consultant*

Mrs. Vera M. Dean, *Associate*

Mr. W. W. Lancaster, *Associate*

*General Federation of Women's Clubs*

Mrs. Lafell Dickinson, *Consultant*

Mrs. William Dick Sporberg, *Associate*

Mrs. Earl Shoesmith, *Associate*

### *Kiwanis International*

Mr. Donald B. Rice, *Consultant*

Mr. Harley Magee, *Associate*

### *Lions International*

Mr. D. A. Skeen, *Consultant*

Mr. Melvin Jones, *Associate*

Mr. Fred Smith, *Associate*

*National Association for the Advancement of Colored People*

Mr. Walter White, *Consultant*

Mr. W. E. B. Dubois, *Associate*

Mrs. Mary McLeod Bethune, *Associate*

*National Association of Manufacturers*

Mr. Robert M. Gaylord, *Consultant*

Mr. Hugh O'Connor, *Associate*

## Appendix D—(Continued)

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Mr. W. W. Cumberland, *Associate*  
*National Catholic Welfare Conference*  
Mr. Richard Pattee, *Consultant*  
*National Congress of Parents and Teachers*  
Mrs. William A. Hastings, *Consultant*  
*National Council of Farmer Cooperatives*  
Mr. Homer L. Brinkley, *Consultant*  
Mr. Earl W. Benjamin, *Associate*  
Mr. C. C. Teague, *Associate*  
*National Education Association*  
Mr. William G. Carr, *Consultant*  
Mr. Ben Cherrington, *Associate*  
*National Exchange Club*  
Mr. A. Brooks Berlin, *Consultant*  
*National Federation of Business and Professional Women's Clubs, Inc.*  
Miss Margaret Hickey, *Consultant*  
Miss Josephine Schain, *Associate*  
*National Foreign Trade Council*  
Mr. Eugene P. Thomas, *Consultant*  
Mr. Henry F. Grady, *Associate*  
Mr. John Abbink, *Associate*  
*National Grange*  
Mr. Albert Goss, *Consultant*  
Mr. George Sehlmeyer, *Associate*  
*National Lawyers Guild*  
Mr. Robert W. Kenny, *Consultant*  
Mr. Martin Popper, *Associate*  
*National League of Women Voters*  
Mrs. Anne Hartwell Johnstone, *Consultant*  
Mrs. George H. Engels, *Associate*  
Mrs. Harold Nachtrieb, *Associate*  
*National Peace Conference*  
Miss Jane Evans, *Consultant*  
Dr. John Paul Jones, *Associate*  
Mr. Richard Wood, *Associate*  
*Railway Labor Executives Association*  
Mr. Charles J. MacGowan, *Consultant*  
*Rotary International*  
Mr. Walter D. Head, *Consultant*  
Mr. Cyrus P. Barnum, *Associate*  
Mr. Allen D. Albert, *Associate*

## **Appendix D—(Continued)**

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*Women's Action Committee for Victory and Lasting Peace*

Miss Lillian M. Phillips, *Consultant*

Mrs. Arthur Brin, *Associate*

Mrs. George Fielding Eliot, *Associate*

*Veterans of Foreign Wars of the United States*

Mr. Louis E. Starr, *Consultant*

Mr. L. G. Taggart, *Associate*

Judge Frederick M. Miller, *Associate*











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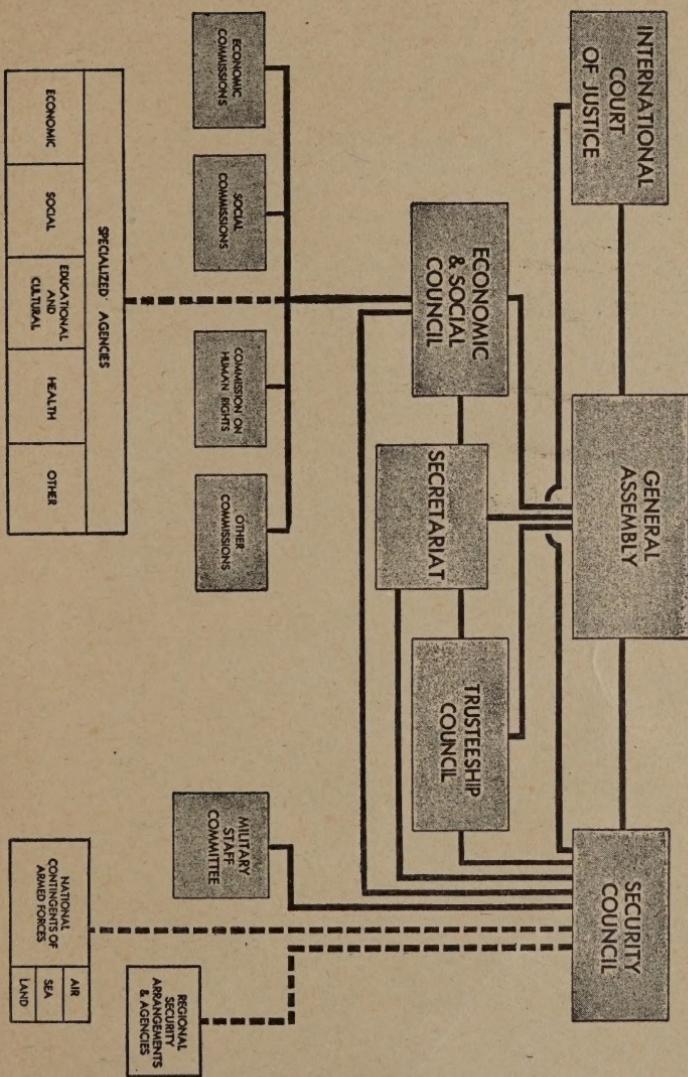
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